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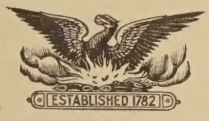

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The Solicitors' Journal

VOL. LXXX. **Saturday, May 23, 1936.** No. 21

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Current Topics.

Sunday and the Law.

THE publication of a new work on the "Law relating to Sunday" is a reminder that the first day of the week has still its significance from the legal point of view. We have indeed travelled a long way from the days when CALVERLEY put into the mouths of the two heroes of "Gemini and Virgo" the confession that:—

"We did much as we chose to do;
"We'd never heard of Mrs. Grundy;
"All the theology we knew
"Was that we mightn't play on Sunday."

With a large section of the community the sanctity of the first day of the week is much more honoured in the breach than in the observance; but this notwithstanding, there still stand on the statute book various Acts against its desecration, such as those contained in the Sunday Observance Act, 1781, which gave rise to a number of cases which came before the courts quite recently. Apart from that species of legislation we have the fact that Sunday is, what the Bills of Exchange Act, 1882, calls it, a "non-business day" with consequences affecting the calculation of the days of grace and other matters. The prohibitions contained in the Lord's Day Act, 1677 (29 Car. 2, c. 7), are also occasionally sought to be enforced and have given rise to some curious constructions, such, for example, as in *Hawkey* v. *Stirling* [1918] 1 K.B. 63, which decided that an amusement caterer was a "tradesman" within the Act.

Names and Titles.

THE Society for Pure English, a body whose activities are much to be commended, has just issued a tract on "Names, Designations and Titles," prepared by no less an authority than Dr. CHAPMAN, the Secretary to the Delegates of the Oxford University Press, which should prove a boon to all who sometimes feel shaky in their information on this delicate topic and are consequently oftentimes in fear and trepidation lest they should commit the solecism of employing an incorrect form of address towards some public man or some distinguished lady. In the legal world we are familiar with a considerable variety of forms of address as applied to members of the Bench and with the fact that changes in these have taken place from time to time. Curiously enough, the lowest in the hierarchy of tribunals in England are manned by those who, at least colloquially, bear the most august of titles, namely "Your Worship," which, as readers of "Pickwick" will remember, became degraded into "Your Washup" on the lips of Mr. Grummer. Apart from this unorthodox departure from the correct appellation, students of the changes which have occurred in the higher regions of the law cannot fail to have observed several which by now have become obsolete. Down to comparatively recent times the Master of the Rolls, when he was still a judge of first instance, was invariably addressed as "Your Honour," and he was so styled in the reports. Among older practitioners there were always some who were punctilious in confining the term "Your Lordship" to the heads of the various courts, that is, the Chief Justice of the King's Bench, the Chief Justice of the Court of Common Pleas, and the Chief Baron of the Court of Exchequer, and addressing the puisnes simply as "Sir," and it is on record that a member of the Bar when about to reply to a question put to him by the Chief Justice was asked an additional question by one of the puisnes, which led him to say with some tartness, "I will answer you, Sir, when I have replied to his Lordship." To us this seems a remark bordering on impertinence, but apparently it was regarded as technically correct. Mr. Foss, the learned historian of the Judges of England, told us that at a meeting at which he was present he, in speaking to one of the judges, addressed him as "Your Lordship," to be corrected by being told that he was entitled to that designation only when on the Bench.

Ribbon Development: Effectiveness of the Act.

THE ninth annual report of the Oxford Preservation Trust contains, with some interesting observations on the subject of ribbon development, certain strictures on the effectiveness of statutory control in the matter. The skeleton development of urban property along existing roads, which the report exhibits as "fatal to the growth of a sound community life," will, it is urged, still prevail under the law as it stands, even as modified by the Ribbon Development Act, 1935. "The interest of those who deal in land values," it is stated, "will remain the dominant factor in the distribution of new buildings. The permanent interest of the people destined to live in these buildings will tend to be sacrificed to the temporary interest of speculators in land. Further legislation will be required to ensure that urban authorities, as they develop, are planned in the best interest of the thousands destined to live in them and of the country as a whole." While it is recognised that the Act will operate to check the progressive ruination of costly arteries of traffic, it will not, it is feared, "secure the grouping of houses and factories so as to reduce the future cost of water, sewers, gas, electricity, playing-grounds, schools, clubs, and churches, and of every kind of public service." The other side of the picture is presented by the Chairman of the Ribbon Development Sub-Committee of a county council in a recent letter to *The Times*, who urged that condemnation of the Act at this stage is premature and indicated what has been done in the county

in question to render the Act effective. In this case the approval of the Ministry of Transport has been obtained to the inclusion of all unclassified roads with any traffic value under s. 2 of the Act, standard widths on classified roads are being adopted as rapidly as possible, while at a conference of all interested parties, to which representatives of district councils and planning authorities were invited, general agreement with the policy of the county council to work wholeheartedly with the planning authorities and owners of building estates in accordance with definite principles seems to have been achieved. These principles aim at development in depth, provide for the avoidance of service roads parallel to the highway, stipulate a particular distance between points of access, and seek to place individual houses in relation to a general plan for future development and to provide them with a draw-in off the road. At a further conference, to which all clerks and surveyors to urban district councils of less than 20,000 population, clerks to rural district councils, building surveyors and town planning officers were invited, details were thoroughly discussed with the county surveyor and his staff, and as a result a Ribbon Development Sub-Committee of the county council was able to get to work. A large number of cases have been settled without friction on terms agreeable to owners, planning authorities and the committee, while in several cases it has been found possible to arrange with the town planning authority for building estates to be developed in depth. The merits of the Ribbon Development Act should, we think, be considered in the light of the evils it was intended to abate. Other undesirable forms of development would appear to fall rather within the ambit of town and county planning. The foregoing letter affords a good illustration of what can be done by the co-operation of highway planning authorities and land owners.

The Minister of Health and Rural Authorities.

SPEAKING at the annual conference of the Rural District Councils Association at Bournemouth recently, Sir KINGSLEY WOOD made a number of interesting remarks upon subjects frequently touched upon in this column. The general improvement in the standard of life in regard to sanitary and housing conditions and the movement of urban populations into the country, with the demand for urban facilities in rural areas, were exhibited as factors rendering the work of rural district councils in some respects heavier than that of other authorities. The grant of £1,000,000 allocated by the Government for assisting schemes associated with rural water supplies, with the help of which schemes had been provided for over 2,000 parishes, with a capital cost of over £6,000,000 has, it was indicated, been exhausted. But excellent progress had been made, and the Minister of Health expressed himself as satisfied that the grant, together with the contributions from the authorities themselves, had gone a long way towards breaking the back of the rural water problem. Loans sanctioned to rural district councils in connection with health services provide an indication of the advance made since the war in the provisions of these and associated services in rural areas. During the last financial year it was said that no less than £3,078,000 had been sanctioned, and this was more than half the total sanctioned in the ten years from 1901 to 1910, a figure which was certainly the highest since 1922, and probably a record one.

Rural Housing.

CONTINUING, Sir KINGSLEY WOOD alluded to what he described as the remarkable expansion which had taken place last year in slum clearance in rural districts, and he said that there appeared to be no reason why the slum clearance programme should not easily be completed within the five year period. With regard to the reconditioning of cottages under the Housing (Rural Workers) Acts, 1926 and 1931, the striking improvement in the numbers reconditioned had, it was intimated, been maintained during the past year. The number of cottages improved had now risen to 11,000, but it was clear there was still a great deal to be done. Allusion was made to a reluctance on the part of certain authorities to give grants to persons of means, but it was pointed out that the conditions attached to this grant were designed to secure that the benefit went not to the owner of the cottage but to the tenant. Refusal of the grant in such circumstances merely resulted in depriving the tenant of the benefits which the Acts intended to give him. With regard to overcrowding, it was said that rural district councils would have no difficulty in dealing with the problem within a limited time. Details of the overcrowding survey had already been received from ninety-nine district councils, which covered 300,000 houses, of which 3·3 per cent. were found to be overcrowded. In conclusion, the Minister pointed to the desirability of employing, wherever possible, expert advisers in housing work, and to the importance of doing nothing to despoil the beauty of the countryside. The houses to be erected under slum clearance would in many districts have an appreciable effect on the architectural character of the district. When new cottages were to be erected in an existing village of a well-defined architectural character or in rural surroundings, it was particularly important, the Minister urged, that every endeavour should be made to ensure that they harmonised with their surroundings. This, he was advised, could usually be done without increasing the cost of the cottages.

Rural District Councils and Tithe.

AT the conference of the Rural District Councils Association at Bournemouth towards the end of last week, Sir SEYMOUR WILLIAMS, chairman of the executive council, announced that, as a result of negotiations between a committee of the Association and the Minister of Health, rural district councils were to receive from the Government the full amount of their loss in rates on tithe for the first year except in respect of the urban part of the tithe. The amount would then diminish gradually. Sir SEYMOUR intimated that the Government was in fact giving a grant equivalent to £600,000 a year spread over sixty years, which meant a total of £36,000,000 over that period. The importance of the matter is clear in light of the statements that in one country area the rateable value of tithe in the rural districts comprised 15 per cent. of the whole rateable value, in some parishes half the rateable value was tithe, while the total amount of rates on tithe payable in the rural districts was about £850,000 per annum.

Temporary Structures, etc.: New Model By-Laws.

THE Ministry of Health draws attention to the increasing importance during recent years of the problem of controlling the erection or presence on land of tents, sheds, vans and similar structures in the interests of public health. The Minister has recently prepared a revised series of model by-laws which includes, in addition to the clauses normally adopted, a number of further provisions permissible within the limits of the existing law on the subject. Among them are requirements for giving notice to the local authority in certain circumstances of intention to use the land for the purposes in question, and particularly in cases relating to clearing the land of refuse, and to separation between various structures. It is pointed out that local authorities which have had difficulty, but have not hitherto adopted by-laws, may now wish to do so, while others, which have had by-laws in force but have found themselves unable to deal with all the difficulties arising in their areas, may desire to supplement their existing by-laws by additional clauses. Copies of the new model series are obtainable by local authorities from the Ministry; while, where only supplementary clauses are desired, the Minister's officers will, wherever it is likely to be helpful, prepare a draft of those clauses for the local authority concerned.

Employment of Women and Young Persons.

THE objects of the Employment of Women and Young Persons Bill were alluded to in this column in our issue of 4th January (80 SOL. J. 3) shortly after it had been read a second time in the House of Commons and they need not be further considered here. It should, however, be noted that an amendment postponing from 1st July till 1st January the date on which the Bill shall come into operation was accepted during the Report stage. Mr. G. LLOYD, who moved this amendment, explained that the change was due to the delay in the passage of the Bill and the necessity for preliminary procedure before it could become effective. Replying to criticisms on the motion for the third reading, the Home Secretary urged that the Bill did not establish the two-shift system. He alluded to the Women and Young Persons Act, 1920, which made provision for such a system and which Parliament continued year by year. Under the existing law there were, he said, no provisions adequate to protect the interests of the people concerned, and the Bill endeavoured to lay down what that protection should be. There was no provision in the existing law for a secret ballot, nor was there anything to provide that, when the two-shift system was authorised, there must be proper conditions laid down regarding the welfare of the people concerned. Sir JOHN SIMON denied that the Bill was a retrograde measure, and he invited the co-operation of members of the opposition in making it plain that there was no truth in the statement that the two-shift system was imposing on people hours of work beyond those now provided for.

Registration of Title in Middlesex.

THE Land Registration Bill was read the second time in the House of Commons on 11th May, a resolution under the Land Registration Act, 1925, in the following terms being subsequently agreed to: "That the draft Order in Council declaring that registration of title to land is to be compulsory on sale in the administrative county of Middlesex, which was presented to this House on the 4th February, 1936, be approved." The extension of compulsory registration to Middlesex carries into effect a recommendation of the Land Transfer Committee. In moving the second reading of the Bill, THE ATTORNEY-GENERAL pointed out that in this county already some two-thirds of the land was already registered under the voluntary system, and that it was on this and other grounds the most suitable county for the extension of the compulsory system. Clause 1 of the Bill removes a difficulty, which might arise in certain cases, by eliminating the existing requirement of the Act of 1925 that orders of the above character must be approved within eighteen months of the time when the original motion was given. Clause 2 of the Bill contains suitable provisions for the existing Middlesex Deeds Registry in view of the introduction of the compulsory system. The remaining clauses of the Bill have reference to the Insurance Fund. Their contents have already been indicated in this column (80 SOL. J. 83). The money resolution in connection with these changes was agreed to in committee on the same day.

Income Tax Avoidance.

THE Finance Bill, the text of which was published some ten days ago, contains a number of provisions in pursuance of the already noted intention of the Chancellor of the Exchequer to render assessable certain payments which have hitherto not been liable to income tax. These matters are dealt with in clauses 16-19. Clause 16 renders liable to tax dividends remitted from abroad to this country in the form of debentures where there has been a transfer of assets to a foreign person or company and the result is that an individual acquires rights over the foreign company which enable him substantially to enjoy its income. A proviso exempts from the operation of the clause persons who can show to the satisfaction of the special commissioners that the transfer and any associated operations were effected mainly for some purpose other than the avoidance of liability to taxation. Clause 17 deals with the one-man company and tightens up the definitions in the Finance Act, 1922, particularly with reference to the phrase "control by five or fewer persons." Clause 18 is concerned with investment companies. Clause 19 provides, in substance, that where a person makes a settlement in favour of his children under age the income arising from the same shall be aggregated with his own for income tax purposes. Another important innovation in this clause is a provision to the effect that a trust shall not be deemed to be irrevocable if it can, in fact, be revoked by the act or default of any person. "Child" includes a stepchild, an adopted child, and an illegitimate child. Readers desiring further particulars must be referred to the Bill itself, considerations of space precluding further treatment here.

Recent Decisions.

IN *Rowell* v. *Pratt* (*The Times*, 16th May), the Court of Appeal reversed the decision of a county court judge and held that notwithstanding the provisions of s. 17 (2) of the Agricultural Marketing Act, 1931, a return made by a grower under that Act to the Potato Marketing Board was not privileged so as not to be available for the court under a *subpœna duces tecum*.

IN *Clarke* v. *Cassell & Co. Limited and Others* (*The Times*, 19th May), the Court of Appeal dismissed an appeal from the judgment of SWIFT, J., sitting with a special jury, in which damages of £2,500 were awarded to the plaintiff in respect of a libel published in one of the volumes of the "Journals of Arnold Bennett."

IN *Berg* v. *Sadler and Moore* (*The Times*, 19th May), the plaintiff, who was on the "stop list" of the Wholesale Tobacco Trade Association, for alleged breach of his agreement with them, attempted, while concealing his identity as buyer, to obtain from the defendants, who were members of the Association, cigarettes and tobacco for which he was willing to pay the full price due. The defendants retained this sum and the plaintiff's claim for its return failed. If the defendants had supplied the goods to the plaintiff on the stop list, the consequences to them might have been serious.

THE Court of Appeal dismissed the plaintiff's appeal in *Thorne* v. *Motor Trade Association* (*The Times*, 19th May), referred to recently in this column (80 SOL. J. 335), holding that the matter which related to the validity of a rule of the Motor Trade Association, providing for the payment of fines as an alternative to being placed on a "stop list," was governed by *Hardie and Lane Ltd.* v. *Chilton* [1925] 2 K.B. 306. Leave was given to appeal to the House of Lords.

IN *Rex* v. *Wandsworth Licensing Justices; Ex parte Rogers* (*The Times*, 20th May) a rule *nisi* for *certiorari*, which had been granted on the ground that licensing hours had been altered at an adjourned meeting not held within one month of the general annual licensing meeting (as required by s. 10 of the Licensing (Consolidation) Act, 1910), was discharged. The annual meeting was held on 7th February and adjourned till 6th March, the order complained of was made at a further adjourned meeting held on 20th March. The court held that what was done on 20th March was a continuation of what was begun on 6th March and accordingly the justices had jurisdiction to change the licensing hours at the meeting of 20th March.

The Court of Appeal dismissed the plaintiff's appeal in *de Normanville* v. *Hereford Times, Ltd.* (*The Times*, 20th May). The matter arose out of the report of a public meeting which, though not reproducing the exact words of a speaker, was held to be fair and accurate within the meaning of s. 4 of the Law of Libel Amendment Act, 1888. The original hearing was reported in our issue of 26th October, 1935 (79 Sol. J. 796).

Land Registration: Leases—II.

[Contributed.]

Close examination of the law in regard to leases of registered land reveals considerable difficulties. In our first article, which appeared in 80 Sol. J. 176, we gave an outline of some of the principal problems in regard to this subject, and also a summary of what we considered to be the correct version of the law. When one studies the details, the problems become still more perplexing. It is indeed an example of the maxim well known to conveyancers and others : " The greater the knowledge, the greater the uncertainty."

In the first place, " doubts have arisen " whether the same rules in regard to registration of leases apply when the freehold has been registered voluntarily as when it has been registered compulsorily. A question on these lines was asked under " Practical Points " on p. 48 of Vol. 80 (1935) of the " Law Journal." A reference was made to a footnote on p. 4 of that very useful little book, Wontner's " Land Registry Practice " (3rd edition, 1935). That says :

> " In cases where the freehold or superior leasehold title is registered, all leases of over 21 years must be registered whether in a compulsory or non-compulsory area."

The reply to the question in " Practical Points " in the " Law Journal " agreed with that view, which was also taken by the learned writer of the article in (1928), 72 Sol. J. 96. But it may be noted by those who wish to investigate the matter still further, that the solution was not reached by the same means in the three cases ! It appears to be distinctly the " better opinion " that the same rules in regard to leases apply whether the freehold is registered voluntarily or compulsorily. But it is to be hoped that one day it will not merely be a matter of opinion.

The problem arises in a converse form in the cases under s. 123 of the Land Registration Act, 1925 (hereinafter called " the Act "). That section contains definite penalties for failure to register leases of forty years and upwards in a compulsory area. On the expiration of two months such unregistered leases become " void so far as regards the grant or conveyance of the legal estate." But what is the result of failure to register, e.g., a lease of 99 years where the freehold is registered voluntarily ? In (1928), 72 Sol. J. 181, there is a short discussion on the position of a lessee of registered land who should have registered his lease, but has failed to do so. The eminent writer begins the material paragraph with the words " On the grant of a lease exceeding twenty-one years of registered land, whether in a compulsory or non-compulsory area . . ."

After showing what registrations are necessary in such case, he discusses the effect of " not registering the lease when granted." He refers to p. 59 of Brickdale's " Land Registration Act, 1925 " (3rd edition, 1927), and is inclined to differ from the view taken there, that the analogy of *Walsh* v. *Lonsdale* (1882), 21 Ch. D. 9 applies. He suggests that such unregistered leases are in much the same position as an estate tail before 1926, of which a disentailing assurance had been effected, but not yet enrolled. At any time matters may be put right by registering the lease. If this view is correct, the position of a lease where the freehold is registered is very different from that of a lease in a compulsory area where the freehold is as yet unregistered. Section 123 of the Act fixes a definite limit of time, and definite penalties.

Questions might arise which provisions would apply in certain cases. Suppose, for instance, that the lessee for ninety-nine years of registered land in the County of London fails to register his lease. What is the result ? Does it become void after two months " so far as regards the legal estate ? " Or do those provisions of s. 123 only apply when the freehold in a compulsory area is unregistered ? This latter hypothesis is supported by some words in 72 Sol. J. 181, which come a little earlier than those previously quoted from the same article :—

> " Section 123, requiring the title to a lease having forty years and upwards to run to be registered, applies only to unregistered land in areas in which an Order in Council has been made introducing compulsory registration on a sale or grant of a lease."

See also Vol. 18 of the " Conveyancer " (1932–1933), pp. 52, 54

But it would seem somewhat unfair for the negligent lessee to escape so much more lightly when the freehold is registered than when it is unregistered.

Yet another problem arises out of s. 123. What is the exact effect of the words " void so far as regards the grant or conveyance of the legal estate ? " What precisely is the position of a lessee, whose lease comes within the provisions of s. 123, but who has failed to apply for registration of his lease within the specified period of two months ? Must there be a new grant of the lease for it to be effective ? There appears to be an impression in some quarters that by some means the outstanding legal estate is got in, and so all is well. It is hard to see how the transitional provisions of the L.P. Act, 1925, could apply, if the lease was granted after 1925. But, apart from the transitional provisions, how can matters be put right without a fresh grant ?

Meantime, there remains the problem of the lessee for ninety-nine years in a compulsory area, where the freehold has not yet been registered. He duly registers his lease under s. 123, but, for obvious reasons, cannot register notice of it under s. 48. He and other anxious lessees will wonder whether it is really true, as Mr. Potter has convincingly suggested (Potter's " Registered Land Conveyancing " (1934), p. 248) that failure to register notice of a lease under s. 48 may lead to its extinction on the sale of the freehold. If that really is the case, it would seem that the lessee of a short lease, e.g., seven years, would be in a stronger position than the lessee of a lease for ninety-nine years. The former lease, being an overriding interest, would be protected under s. 70 of the Act. Can it be the case that a short lease of registered land is better protected than a long lease ?

The vehement supporters of compulsory registration may note that Mr. Potter says (on p. 248 of his " Registered Land Conveyancing ")—

> " In fact, a lessee is really in a worse position under the system of registered titles than he was under the system of unregistered conveyancing, but this is subject to the fact that a lease may be protected as an overriding interest on the ground that it is comprised in ' the rights of every person in actual occupation of the land or in receipt of the rents and profits thereof.' "

The proviso to this sentence is somewhat startling, and not easy to follow. Does Mr. Potter suggest that it is possible that all leases of registered land, e.g., those of 999 years, should be treated as " overriding interests," because of s. 70 (1) (*g*) of the Act ? That would certainly be giving a very wide scope to s. 70 (1) (*g*), which, in any case, is difficult to understand. The note on p. 255 of Brickdale's Land Registration Act, 1925 (3rd ed., 1927), is not very clear, and most of us are left wondering what sort of interests are comprised in " the rights of every person in actual occupation of the land or in receipt of the rents and profits thereof." If and when the amending legislation is introduced, we hope that this point will not be forgotten. The extremely wide rendering which might be given to s. 70 (1) (*g*) might easily lead to considerable confusion.

Doubtless there are answers to some of the questions which we have raised in these two articles. It is possible that some of the answers may be easier to find than we have imagined. That will be no objection, from our point of view. We shall even be willing, if necessary, to confess to " ignorance, sheer ignorance," in regard to a subject in which, to be frank, ignorance is widespread. But any well-founded solutions to the various problems we have mentioned should be of assistance. With the growth of land registration on the one hand, and the increase in the habit of granting long leases on the other, it is surely not in the public interest that so many

factors should remain doubtful. In particular, it should be made clear what is the exact scope of s. 123 of the Act, and how far the penalties specified therein apply.

Meantime, we must repeat our view that most of the uncertainties in regard to registration of leases can only be removed by legislation.

Costs.

LEASE PREMIUMS.

We have been dealing with the basis of remuneration of solicitors in respect of leases, the majority of which are granted in consideration of a rent only. It is no uncommon thing, however, for the lease to be granted in consideration of both a rent and a premium, and in such a case it will be obvious that the scale of remuneration which only pays regard to the amount of the rent will be inadequate.

The matter is dealt with by r. 5 of the Rules applicable to Pt. II of Sched. I of the General Order, 1882. This rule provides that where a lease is partly in consideration of a money payment or premium, and partly of a rent, then, in addition to the scale remuneration prescribed in respect of the rent, there shall be paid a further sum equal to the remuneration on a purchase at a price equal to the money payment or premium.

The first point that strikes one is that this rule can only apply in a case to which the second scale of Pt. II applies, because it would seem, at first sight, that where the consideration for the lease is a premium as well as a rent, then the latter cannot be a rack rent. Upon further consideration, however, it will be seen that this is not necessarily so, and it is possible to conceive of a case where a landlord is willing to let premises that are in considerable demand, and a prospective tenant, in order to secure the premises, may offer a premium in addition to the current market rent, in order to secure them from a competitor. In such a case the lessor's solicitors would apparently be entitled to the scale remuneration as on a rack rent, and the scale remuneration under Pt. I, Sched. I, as on a sale for the amount of the premium.

The next question that occurs to one's mind is whether the lessee's solicitors, in such a case, are entitled to the scale remuneration on the premium, and, if so, whether the remuneration should be the full scale fee calculated on the premium, or whether the lessee's solicitors are bound under the scale to accept only half of the fee so calculated.

This point, it is true, is not free from doubt, but the rule may quite logically be read to apply to the remuneration of both parties' solicitors, such remuneration to be calculated in each case as on a purchase. If it had been intended that this additional remuneration should be limited to the lessor's solicitors only, then one would have thought that the words "the lessor's solicitors" would have been inserted at the beginning of the final sentence in substitution for the word "there."

Turning now to the next point, it will be seen that the provision that the lessee's solicitors' charge is to be one-half that of the lessor, is an inherent part of both scales under Pt. II, and is not a direction provided by the rules themselves. This provision would, therefore, appear to apply only to the scale remuneration in respect of the rent. The fee in respect of the premium is to be an additional fee to that charged in respect of the rent and is to be equal to the remuneration on a purchase. The scales under Pt. II do not, therefore, apply to the premium, and the direction contained in those scales that the lessee's solicitors' charges are to be one-half of the lessor's solicitors' charges cannot, it seems, apply either. It appears to follow from this that the lessee's solicitors would be entitled to charge the full scale remuneration under Pt. I, Sched. I, in respect of the premium and one-half the lessor's scale in respect of the rent.

We then come to the problem of the minimum charge. It will be noticed that under both the first and the second scale of Pt. II the minimum charge in respect of the rent is £5, plus the appropriate percentage increase. We have seen before, however, that these scales apply only to the remuneration that is chargeable in respect of the rent. Rule 5 prescribes *additional* remuneration where there is a premium, and this additional remuneration is to be equal to the remuneration on a purchase. If, therefore, the amount of the premium is sufficiently small it means that the additional remuneration will be the minimum charge under Sched. I, which is again £5, plus the appropriate addition of 20 per cent. or 33⅓ per cent. Thus, two minimum charges may be made in respect of one lease where that lease is granted in consideration of a premium as well as a rent. For example, if property is leased for forty years at a rental of £150 per annum, and a premium of £200, then the lessor's solicitors' charges would depend in the first place on whether the £150 represents a rack rent. If it can be shown that it does, then the solicitors' charges would have to be limited to the first scale, namely, £10 10s., plus the minimum charge of £6 in respect of the premium in accordance with r. 5, *supra*. If the rent could be shown to be other than a rack rent, then the solicitor would be entitled to his remuneration in respect of the rent in accordance with the second scale, namely, £28 16s., plus the minimum fee of £6 in respect of the premium. The lessee's solicitors' charges would be £5 5s. under the first scale or £14 8s. under the second scale, plus the minimum fee of £6 in respect of the premium, assuming that the argument set out above with regard to the lessee's solicitors' fees under r. 5, *supra*, in respect of a premium is correct.

Although it is provided by r. 5, *supra*, that the remuneration of a solicitor in respect of a lease that is partly in consideration of a premium is to be increased by a sum equal to the remuneration on a purchase, Chitty, J., held in the case of *In re Horn and Francis* [1896] 2 Ch. 797, that he was not entitled to a negotiating fee, even in respect of the premium, and that the whole of the work done in respect of negotiations must be deemed to be covered by the scales provided in Pt. II of Sched. I.

The precise terms of the Solicitors' Remuneration Order, 1936, which authorises an increase of 33⅓ per cent. in respect of the scale remuneration under the General Order of 1882 after the 13th April, 1936, are worthy of consideration. It will be observed that the Order states that it "shall not refer to business transacted or undertaken (respectively) before the 13th day of April, 1936." If, therefore, a solicitor undertook the work in connection with the purchase of a house on the 11th April, then, notwithstanding that the whole of the work was performed after the 13th April last, his remuneration would be subject to the increase of 20 per cent. and not 33⅓ per cent.

Company Law and Practice.

The Ingredients of a Floating Charge.

The great attribute of that form of security which is known as a floating charge is that by nature it is particularly well adapted to the needs of commerce, and this is perhaps the principal reason why use of it is so widely made. From the practical point of view, it offers to the party in whose favour it is created sufficient security for his loan, and as regards the company that creates it, it is enabled to continue in everyday business with the least possible degree of inconvenience. The fixed or specific charge is the opposite of the floating charge, as everyone probably appreciates; but before we pass to consider the ingredients that go to the making of a floating charge, let us see what the 1929 Act has to say on the matter, so that we can bear in mind the statutory provisions when we come to deal with the nature of the security thus created.

The most important section is the monumental s. 79, dealing with the registration of charges with the Registrar of Companies, and the section is expressly (by sub-s. (2) (*f*)) made applicable to "a floating charge on the undertaking or property of the company." We see, therefore, that, by virtue of s. 79 (1), every such floating charge created after the fixed date (i.e., the 1st July, 1908) by a company registered in England is to be void, so far as any security on the company's property or undertaking is conferred thereby, against the liquidator and any creditor of the company, unless the prescribed particulars of the charge, together with the instrument (if any) by which the charge is created or evidenced, are delivered to or received by the Registrar of Companies in manner required by the Act within twenty-one days after the date of its creation, but without prejudice to any contract or obligation for repayment of the money thereby secured, and when a charge becomes void under this section the money secured thereby is immediately to become payable. The "prescribed particulars" above referred to may be found in No. 47 of the Board of Trade forms, and I do not propose to deal further now with s. 79, beyond observing that the consequential sections of the Act dealing with extension of time for registration, the company's register of charges to be kept by the company, and so forth, must not be overlooked in connection with floating charges. The other section which I think we should call to mind is s. 266, which provides that where a company is being wound up, a floating charge on the undertaking or property of the company created within six months of the commencement of the winding up (i.e., if voluntary, at the time of the passing of the winding-up resolution, and if compulsory, at the time of the presentation of the petition, unless a voluntary resolution has previously been passed when it dates from this latter event) is invalid, unless it is proved that the company immediately after the creation of the charge was solvent, but it is valid to the amount of any cash paid to the company at the time of or subsequently to the creation of, and in consideration for, the charge, together with interest on such amount at the rate of 5 per cent. per annum.

Now let us see how the courts have defined a "floating charge." In the case of *In re Yorkshire Woolcombers Association Limited; Houldsworth* v. *Yorkshire Woolcombers Association Limited* [1903] 2 Ch. 284, Vaughan Williams, L.J., in construing the words I have quoted in s. 79 (2) (*f*), which were identical in the 1900 Act, lamented the fact that no definition of "floating charge" was given in the definition section of the Act; and this deficiency, unfortunately, applies also to the present Act. The particular facts were, in brief, that the company had, by deed, assigned all its present and future book debts and other debts, together with the benefit of all securities for the same, to a trustee, subject to redemption, in trust for and to afford security to certain guarantors; the trustee had power, among other things, to appoint a receiver and exercise the statutory power of sale, but in the meantime he was not to be answerable for allowing the company to receive the book debts that had been so charged. The definition of Lord Macnaghten, in *The Governments Stocks and Other Securities Investment Company Limited* v. *The Manila Railway Company Limited* [1897] A.C. 81, at p. 86, was quoted by Vaughan Williams, L.J., in [1903] 2 Ch. 284, 291: "A floating security is an equitable charge on the assets for the time being of a going concern. It attaches to the subject charged in the varying condition in which it happens to be from time to time. It is of the essence of such a charge that it remains dormant until the undertaking charged ceases to be a going concern, or until the person in whose favour the charge is created intervenes. His right to intervene may, of course, be suspended by agreement. But if there is no agreement for suspension, he may exercise his right whenever he pleases after default." But the learned lord justice's comment on this definition was that it well demonstrated the difficulty of the task, as it made use of terms which were not really applicable to the subject-matter but applicable only by way of analogy; however, he accepted that definition for the purposes of the case under consideration. Romer, L.J., on the other hand, used these words, at p. 295: ". . . I certainly think that if a charge has the three characteristics that I am about to mention, it is a floating charge: (1) if it is a charge on a class of assets of a company both present and future; (2) if that class is one which, in the ordinary course of the business of the company, would be changing from time to time; and (3) if you find that, by the charge it is contemplated that, until some future step is taken by or on behalf of those interested in the charge, the company may carry on its business in the ordinary way as far as concerns the particular class of assets I am dealing with." This definition, while clearly not exhaustive, has been generally accepted as one that is workable from the academic as well as the practical point of view, but we must not lose sight of the qualification expressed by its founder when he said that he certainly did not intend to attempt to give an exact definition of the term "floating charge," nor was he prepared to say that there would not be a floating charge within the meaning of the Act which would not contain all these three characteristics. Be that as it may, for our purposes the definition is sufficiently accurate and sufficiently broadly expressed, while it is a good deal more concise than that given by Lord Macnaghten. As Romer, L.J., pointed out, in that particular case, the charge was upon all the debts of the company (i.e., a class of assets), both present and future; secondly, the class of asset charged was one which, in the ordinary course of the company's life, must continually and necessarily change; and thirdly, the company could clearly, by the deed, receive the debts due in the ordinary course of business and deal with them for the ordinary purposes of business. The House of Lords confirmed the decision *sub nomine, Illingworth* v. *Houldsworth* [1904] A.C. 355, and Lord Macnaghten, having observed that his words in the *Manila Case, supra*, were intended not as a definition but as a description, said, at p. 358: "A specific charge is one that without more fastens on ascertained and definite property or property capable of being ascertained and defined; a floating charge, on the other hand, is ambulatory and shifting in its nature, hovering over and, so to speak, floating with the property which it is intended to affect until some event occurs or some act is done which causes it to settle and fasten on the subject of the charge within its reach and grasp."

Having reached this point in our inquiry, the next and natural question seems to be: what assets or class of assets are those that can form the subject-matter of a floating charge? And this is by no means so simple to answer as it appears at first sight. The most that we can do is, I think, to consider a decision or two in which particular securities were held to constitute floating charges, paying particular attention to the asset charged. The first thing to notice is that for a charge to be a "floating charge on the undertaking or property of the company" within the meaning of s. 79 (2) (*f*), it is not essential for the charge to be on the whole undertaking, or on the whole property of the company; so much is clear from the words of Romer, L.J., in the *Yorkshire Woolcombers Association Limited Case* (*supra*), at p. 294. In the case of *Hoare* v. *British Columbia Development Association* [1912] W.N. 235, the company created a charge on the present and future profits made by it on certain transactions. I have not the space here to detail the facts fully, and it must suffice to say that Neville, J., considered the deeds constituted a floating charge within the definition of Romer, L.J., as the charge constituted was one on the whole of the profits of the transactions present and future, the profits are a class of assets which would be changing from time to time, and it was intended that the company's business should go forward until the debenture-holders exercised their right to intervene and realise their security. And, from the decision in *Lemon* v. *Austin Friars Investment Trust Limited* [1926] 1 Ch. 1, it is

clear that the asset to be charged by the company may quite properly be only a proportion (three-fourths) of the yearly net profits of the company as and when this amount has been ascertained.

Lastly, as to the effect of the words used, in *In re The Anglo-American Leather Cloth Company Limited*, 42 L.T. 504, the company assigned by way of mortgage its leasehold premises, factory, works and buildings, and also all the plant, machinery, engines, utensils and effects, in or upon the premises, or used in connection therewith. Hall, V.-C., considered a clear assignment was made of the personal chattels as distinguished from the leasehold premises, and those personal chattels were the plant, etc., used on or in connection with the premises. The word " effects " was, he held, sufficient to include the then existing stock-in-trade of the company, whether manufactured, or in process of being manufactured, or upon the premises for that purpose ; but there was nothing to indicate that book-debts should also be included. And such an assignment, is sufficient to create a floating charge (see *National Provincial Bank of England Limited* v. *United Electric Theatres Limited* [1916] 1 Ch. 132), as being, in the case of a theatre company, " a charge upon a class of chattels all of which in the ordinary course of business would or might be changed or removed from time to time " : per Astbury, J., at p. 139.

A Conveyancer's Diary.

Transfer of Mortgage without Concurrence of or Notice to Mortgagor.

THE question as to whether the concurrence of the mortgagor or notice to him and his acquiescence in the transfer obtained is one to which I think attention has not been sufficiently paid.

Of course, a mortgagee may always transfer his mortgage, and may do so without consulting the mortgagor, or even giving any notice of the intention to transfer. If, however, it should happen that the mortgagor has not concurred, or at least impliedly acquiesced in the transfer, it may be that the transferee, when he seeks to enforce the security, will find himself confronted with some equity, of which he had no knowledge, existing as between the mortgagor and the mortgagee which will seriously affect his position.

The recent case of *Parker* v. *Jackson* [1936] W.N. 123, gives point to these observations.

Before dealing with that case, however, I may remind the reader of some of the earlier authorities. In fact, there is no new law in *Parker* v. *Jackson* which followed a line of decisions, although the facts were somewhat peculiar.

There are two cases which I think are the most important, although not the only ones which might be considered.

The first case is *Dixon* v. *Winch* [1900] 1 Ch. 736. That case is principally important because Cozens-Hardy, J., stated the law to be as follows : " It is well settled that where a mortgage is transferred without the privity of the mortgagor, the transferee takes subject to the state of account between the mortgagor and mortgagee at the date of the transfer : *Matthews* v. *Wallwyn*, 4 Ves. 118. And it is also well settled that payments of interest or payments on account of principal made by the mortgagor to the mortgagee after, but without notice of, a transfer, must, in the absence of collusion, be allowed to the mortgagor as against the transferee : *Williams* v. *Sorrell*, 4 Ves. 389. This doctrine has been extended to the case where the whole mortgage debt is, under similar circumstances, paid off : *Norrish* v. *Marshall*, 5 Madd. 475 ; *In re Lord Southampton's Estate*, 16 Ch.D. 178."

The next case is *Turner* v. *Smither* [1901] 1 Ch. 213.

The facts there were that in 1886 a mortgage debt for £1,500 was duly transferred, and the mortgaged property was conveyed, by way of security, to F, the plaintiff, the mortgagor being a party. Several subsequent transfers, to which the plaintiff was not a party, were made, and in February, 1896, the mortgage debt and the security were vested in one Hamp. In 1892, the plaintiff gave Harrison, his solicitor, the money to pay off the mortgage, which he did not do, though he continued to pay interest on the mortgage as it became due to the transferee for the time being. The plaintiff made no enquiry in 1892 for the reconveyance nor for the title deeds, but left the whole matter in the hands of the solicitor. In October, 1897, Hamp transferred the mortgage debt and the property to Harrison, and the next day Harrison transferred the same to the defendant, to whom the deeds were handed. The cheque for £1,500 from the defendant was paid by Harrison into his private account and the cheque to Hamp was drawn by Harrison on the firm's account, which was then in funds, at another bank. In December, 1899, application was made by the defendant to the plaintiff for arrears of interest, and the fraud was discovered. On an action by the plaintiff to establish her priority over the defendant, and for a reconveyance of the mortgaged property, it was held that on the transfer to Harrison the mortgage debt became discharged and he held the property as trustee for the plaintiff ; that the defendant having taken the transfer from Harrison without the privity of the mortgagor, could only hold it against the mortgagor subject to the state of account between Harrison and the mortgagor, and as between them the debt was non-existent ; that the plaintiff never had lost the right to redeem, and that directly the agent, who had received the amount to pay off the mortgage, became himself the transferee, the debt was extinguished, and no transferee from him could treat the debt as a subsisting charge upon the property, and that the plaintiff was therefore entitled to priority and to have a re-conveyance from the defendant.

I now turn to *Parker* v. *Jackson*, *supra*. In 1910 one Parker mortgaged freeholds. He died in 1921. The executors and trustees of his residuary estate, who were his widow (the plaintiff in the action) and one Ferrington (of Ferrington and Jackson, solicitors), sold some property belonging to the estate of the deceased and the proceeds were in the hands of the solicitors. In January, 1929, Ferrington died, and in November, 1929, the benefit of the mortgage of 1910 was transferred to the defendant Jackson, the surviving member of the firm of Ferrington & Jackson. There were subsequent transactions which resulted in a Miss Davies becoming a sub-mortgagee of the property from Jackson. There was no notice given to Parker's widow of these transactions.

In that state of things, Farwell, J., held that if before the creation of the sub-mortgage the trustees of Parker's will had given notice to Jackson to appropriate sufficient of the money which was owing from him or his firm in satisfaction of all money due under the mortgage, no claim could thereafter have been made in respect of the mortgage debt, either by Jackson or by any person claiming under him. His lordship said, after a close examination of the authorities, and particularly of *Turner* v. *Smith*, *supra*, that one who took an assignment of a mortgage without notice to or the privity of the mortgagor, took subject to the state of accounts between the mortgagee and the mortgagor at the date of the transfer. It was contended on behalf of the transferee that she could set up her right although the transferor to her (Jackson) could not have done so without allowing a set-off of the sum due from him to the mortgagor. That contention was rejected by the learned judge in reliance chiefly upon *Turner* v. *Smith*.

From these cases it is plain that any transferee of a mortgage must take subject to any equity for a set-off or otherwise which there may be between the transferor and the mortgagor, unless the transfer has been made with the privity of the mortgagor, and it is, of course, in all cases the prudent course to obtain the concurrence of the mortgagor in any transfer, or at once to give notice to him of the transfer so as to prevent any such equitable claim arising such as that which was successfully set up in *Parker* v. *Jackson*.

Landlord and Tenant Notebook.

Covenant to Repair Part.

An arrangement by which a covenantor undertakes responsibility for part only of the demised premises—usually it is the tenant, and the subject matter the interior—may well give rise to demarcation problems. In certain circumstances, other problems may come into being as the result of such a compromise (it usually is a compromise), and the facts of *London Holeproof Hosiery Co.* v. *Padmore* (1928), 44 T.L.R. 499, C.A., which I propose to discuss, while a little out of the ordinary, are not so unusual as to deprive the authority of practical utility.

They were as follows: The defendant let the plaintiffs a factory for three years from the 1st August, 1925. The plaintiffs covenanted to keep the inside in good repair. The agreement was silent as to the outside. And the plaintiffs were given an option to purchase the freehold for a specified sum, provided they gave six months' notice before the 27th June, 1927, and paid a deposit of one-tenth of the price and all arrears up to completion day. The option, we learn from the judgment of Lord Hanworth, M.R., was conditional on the observance of the tenant's covenants. This is rather an unusual feature in the case of an option to purchase, though one can readily understand its appropriateness in the case of an option for a new tenancy.

In November, 1926, the factory, inside and outside, was practically destroyed by fire. The defendant received a sum of money from his insurers, and in December informed the plaintiffs that he was getting estimates for rebuilding. Thereupon the plaintiffs gave or purported to give notice exercising the option; that is to say, to purchase the premises "when reinstated." But they sent the deposit, and this was acknowledged by a letter repudiating any liability to repair and stating that the sale was of the premises in their "present state." No repairs were carried out, and the plaintiffs instead of completing, sued for damages or the return of the money. The defendant counter-claimed for specific performance At first instance, Tomlin, J., gave judgment for the defendant on the ground that the plaintiffs, when aware of the state of the premises, had elected to go on in reliance of their own view of the proper construction of the documents.

In the Court of Appeal this judgment was reversed; all three judges held that there had never been a contract, offer and acceptance not corresponding, so that the plaintiffs were entitled to the return of their deposit. But Lord Hanworth, M.R., assigned an additional reason for his judgment, which more immediately concerns the subject of this article.

The learned Master of the Rolls observed that the plaintiffs had been liable to repair the inside of the premises, and held that as this was impossible unless there were premises, the agreement implied a condition that the walls and roof should be reinstated before liability attached. His lordship further observed that the option to purchase being expressly conditioned by a provision that the tenant's covenants should be observed, and the covenant to repair not having been observed, there never was any option to exercise.

This part of the judgment thus gives us two useful propositions. The first can be put in this way: In a covenant to keep or put part of premises in repair there is implied a condition that the operation of the covenant shall be suspended when the state of the other part is, through no fault of the covenantor, such as to render performance impracticable.

But, unfortunately, one point which is closely bound up with the above proposition does not appear to have been argued, namely, was anyone, and if so who, liable for the repair of the outside of the premises?

There is no authority to support the suggestion that the landlord would be liable. Except in cases within the Housing Acts, a landlord is not liable apart from express agreement to repair demised premises. To say that by taking an express covenant from his tenant to repair part he impliedly covenanted to repair the other part would be stretching implication too far. Lord Hanworth, it is true, spoke of a duty on the defendant to reinstate the skeleton walls; but his lordship derived that duty from the option, not from the tenant's covenant.

On the other hand, when a tenancy agreement is silent on the subject of repairs, the tenant is liable and the extent of his liability depends on whether he be a tenant from year to year or a tenant for a term of years. The authorities did at one time suggest that even a tenant for a fixed term was liable to rebuild what had been destroyed by fire, but statute law (the Fires, etc., Act, 1774) has absolved him. As the damage in the case dealt with was occasioned by accidental fire, the judgment of Lord Hanworth does not lay down that a tenant under such an agreement would not be responsible for ordinary decay. It is still an open question what would be the position of a tenant liable to repair the interior of premises who found that the effect of the weather had, e.g., on the roof, made inside repairs impracticable or futile. I incline to the view that a court of law would hold that the tenancy, when made, contemplated that the tenant should not be liable, particularly if the covenant to repair part imposed no higher duty than would have been imposed as regards the whole if no express covenant had been entered into. The result would be that neither party would be liable to the other, and *Wilchick* v. *Marks* (1934), 78 Sol. J. 277 (see also the "Notebook," 78, Sol. J. 443) bears out the possibility of such a position.

The other proposition contained in the judgment is this: an option conditioned by a provision that covenants shall have been observed is lost though performance is impossible and the covenantor thereby exonerated. This is a curious result. Liability is suspended, but rights are forfeited.

It is not surprising that Tomlin, J., and Lawrence, L.J., both described the case as troublesome, and the former speculated on what would have been the position if the fire had occurred after the exercise of the option.

Another matter on which one may speculate is this: if no option had been exercised, but the fire had occurred so soon before the end of the term that the walls and roof could not have been rebuilt before the end of the term, or could only just be ready by then, would the tenant be under any obligation to reinstate the interior? If, as the Master of the Rolls said, the tenant is entitled to an opportunity, is not the landlord entitled to an opportunity to give the opportunity?

Our County Court Letter.

CYCLING ON PRIVATE FOOTPATHS.

In a recent case at Cheltenham County Court (*Beattie-Seaman* v. *White and another*), the claim was for £2 as damages for tresspass, an injunction, and a declaration that there was no right of way for members of the public riding or pushing bicycles through the plaintiff's estate at Pull Court, near Tewkesbury. The plaintiff did not dispute the right of way for pedestrians, and no action had therefore been taken by the Upton-on-Severn Urban District Council or by the Worcestershire County Council, who were not interested on behalf of any other class of users. The plaintiff had had no annoyance in 1933, but in 1934 there was an increase in wheeled traffic, and she instructed an employee to stop cyclists. The defendants had refused to stop, and (the onus being on them to prove a right of way) their case was that (1) in 1852 a previous owner had built a bridge, thereby acknowledging an existing right of way. A wicket gate was also left open, even though the large gates were locked once a year; (2) as bicycles

were first made in the 'seventies, no dedication for bicycles were relied upon, but a right of way existed before 1811, either by dedication or by prescription at common law. No reliance was placed on the Rights of Way Act, 1932, but evidence was called as to cycles and perambulators having been pushed over the path, in the last forty years, by strangers without protest. Evidence for the plaintiff was given by a former life tenant of the estate, who came into possession in 1915. There was then no right of way, but tenants and their friends had the privileges of using the path, possibly on cycles. This privilege was not allowed to strangers, and notices were erected prohibiting "conveyances" to use the path. Corroborative evidence was given as to the position in the last forty years. His Honour Judge Kennedy, K.C., observed that there was no proof of dedication in the fact that, when the orchard was flooded, the owner did not object to persons using the drive. The evidence was that user was by permission only in the case of "conveyances," which implied wheeled traffic. Bicycles were wheeled traffic, and there was no dedication for user by cyclists. Judgment was given for the plaintiff for 10s. in each case, and a declaration was made that there was no right of way for persons riding or pushing cycles. An order was made for costs, which the plaintiff did not intend to force.

THE RIGHTS AND LIABILITIES OF INSURANCE BROKERS.

In *Invincible Policies Ltd.* v. *Wilson* recently heard at Nottingham County Court, the claim was for £68 15s. 11d. and the counter-claim was for £59 18s. The plaintiffs were insurance brokers, and their case was that they appointed the defendant their sub-agent in 1932. No business resulted until the 8th February, 1935, when a proposal for motor insurance was received, without any cash for the premium. The defendant was asked to remit on the 15th February, but did not do so, although he submitted fifty-one proposal forms, the last being on the 12th March, 1935. No cash was received from the defendant until April, although his request for a credit account had been refused. He, nevertheless, sometimes issued cover notes, without receiving premiums from the proposers. The sum claimed was the amount of premiums due in respect of such cover notes, whereby the plaintiffs had been put on risk. The defendant admitted liability for £52, but denied that he was an agent. His case was that he was an insurance broker, acting for several companies, and the plaintiffs had not treated him as a cash agent, as was shown by the issue to him of successive books of cover notes. Difficulty had only arisen through the plaintiffs' not issuing policies or insurance certificates promptly, as some of the defendant's clients would not pay premiums until they saw their policies. The defendant contended that he had not only remitted to the plaintiffs all sums received on their behalf, but had overpaid them £7 1s. 9d. His Honour Judge Hildyard, K.C., held that the plaintiffs were only entitled to an order for premiums actually received on their behalf, the account to be taken by the Registrar. Judgment was subsequently given, by consent, for £25 and taxed costs, payable at £2 a month. The question whether the defendant had improperly issued cover notes, whereby the plaintiffs might be entitled to damages for breach of contract, was not in issue.

ADDED PERIL.

In *Havard* v. *Amalgamated Anthracite Collieries Ltd.*, at Neath County Court, the applicant's case was that he had been asked to connect a cable to a firing charge at the colliery. After doing so, he remembered he had left his shovel at the coal face, and he returned to fetch it. While he was doing so, the charge exploded and his eye was permanently injured. The respondents contended that the applicant had no business to connect the cable to the charge, and the accident happened while he was actually doing so. In a reserved judgment, His Honour Judge Clark Williams held that the applicant was not entitled to an award.

Reviews.

Sir Ernest Wild, K.C. By Robert J. Blackham, Barrister-at-Law. 1935. Demy 8vo. pp. (with Index) 271. London: Rich & Cowan, Ltd. 15s. net.

This work is above the average of modern legal biography in that it deals with its subject as a living person and is not merely a recital of the cases with which he was connected. A lengthened title might well run thus: "Progress of a Young Man of Ability Who Had Every Opportunity and Took Himself and His Career very Seriously." The author in the same spirit has taken all too seriously the task of proving that his subject was in every aspect a very distinguished man, and one feels that he would have drawn a more likeable portrait if he had been prepared to make him something less of a paragon, to admit (since he has seen fit to bring in these things), that his versification was at best mediocre, his golfing stories commonplace and his rhetorical effects often pompous and exaggerated. Such admissions would have given much greater force to the praise to which Wild was undoubtedly entitled as an advocate of distinction and a judge with a personality by no means colourless—one not unworthy of the best traditions of the justice of the City of London. For a biography is not a panegyric, and in order to say Wild's kindliness and charm made him many friends, it is not necessary to slur over the fact that his vanity made him many enemies. The book is competently put together, though here and there the expression is slipshod. (The first sentence of the author's preface exemplifies the defects of his style, and later it is a misuse of words to say that Wild died "literally" in harness.) A superabundance of press quotations also tends to rob the book of a living rhythm. Nevertheless, even allowing for the faults, this work, both by reason of its subject and its treatment, has merit and is not to be ignored.

Books Received.

Alice in Police Court Land. By the Author of "Narrow Waters." 1936. Crown 8vo. pp. 106. London, Edinburgh and Glasgow: William Hodge & Co., Ltd. 2s. net.

Fraser on Libel and Slander. Seventh Edition, 1936. By Gerald Osborne Slade, M.A., of the Middle Temple, Barrister-at-Law, and Neville Faulks, M.A., LL.B., of the Inner Temple, Barrister-at-Law. Royal 8vo. pp. lxi and (with Index) 407. London: Butterworth & Co. (Publishers), Ltd. 35s. net.

Principles of Contract. By The Right Hon. Sir Frederick Pollock, Bt., K.C., D.C.L., of Lincoln's Inn. Tenth Edition, 1936. Demy 8vo. pp. lxiii and (with Index) 762. London: Stevens & Sons, Ltd. £1 10s. net.

The Law Reform (Married Women & Tortfeasors) Act, 1935. By Sir Arthur Underhill, LL.D., Bencher of Lincoln's Inn and Senior Conveyancing Counsel of the Supreme Court of Judicature. 1936. Demy 8vo. pp. xvi and (with Index) 98. London: Butterworth & Co. (Publishers), Ltd. 7s. 6d. net.

An Introduction to the Principles of Land Law. By A. D. Hargreaves, M.A., LL.B., Solicitor, Reader in Law at the University of Birmingham. 1936. Demy 8vo. pp. xii and (with Index) 243. London: Sweet & Maxwell, Ltd. 12s. 6d. net.

The English and Empire Digest. Supplement No. 11. 1936. Edited by Philip F. Skottowe, LL.B., of the Middle Temple, Barrister-at-Law. London: Butterworth & Co. (Publishers), Ltd. 32s. 6d. net.

Just Justice? Husbands and Wives in the Police Courts. By Cecil Geeson, of the Justices' Clerk's Office, Newcastle-upon-Tyne. 1936. Crown 8vo. pp. xvii and 59. London: P. S. King & Son, Ltd. 2s. net.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Co-owners—Method of Assurance by One of Two to the Other of his Interest.

Q. 3307. By an indenture of conveyance, made in January, 1923, a freehold estate was purchased by three brothers, A, B and C. The purchase money, £5,250, was in fact found by them, as to £625 by A, as to £1,000 by B, and as to £625 by C, the balance of £3,000 being found by a bank on legal mortgage. The estate was conveyed unto and to the use of the three brothers, their heirs and assigns as tenants in common. In October, 1925, B was repaid the sum of £1,000 which he had put in, this amount being actually found by the bank, who thus increased their charge on the property to the sum of £4,000. By a deed of conveyance the same month, made between B of the one part and A and C of the other part, B thereby granted and conveyed to A and C "All that one undivided third part or share" to which he was entitled in the property, to hold unto and to the use of A and C, their heirs and assigns as tenants in common. C is now desirous of being repaid the £625 representing his proportion of the purchase money as aforesaid, and is prepared to convey his interest therein to A in consideration of such amount being paid to him. Since the above, of course, the new Property Acts have come into force, and it would appear that the estate is now vested in A and C as trustees for sale. Having this in mind would you please indicate the form which the operative part of the conveyance which it is proposed to be drawn, from C to A, should take, and whether it would be sufficient for C to convey to A "All that his share and interest" of and in the property, i.e., in consideration of the sum of £625 to be paid him as above.

A. It is agreed that A and C hold the legal estate upon the statutory trusts by virtue of L.P.A., 1925, s. 39, and Sched. I, Pt. IV, para. 1 (2). If C were to "release" to A "all his share and interest at law and in equity" of and in the property, it is probable that the transaction desired will be satisfactorily carried out. As against any such method it may be suggested, and with reason, that C regarded as a trustee would have no right to deal with his interest in the legal estate in this manner, and would not be discharged from his trust. If he was not so discharged a purchaser from A might demand that title should be made from the trust for sale. Further, the method is inartistic in that it ignores the trust for sale. As an alternative, in and by the same deed let C release his equitable interest to A, and subsequently let C and A at the request of A as being then absolutely entitled in equity assure the legal estate to A free from the statutory trusts. The writer has on many occasions employed this method without (up to date) adverse criticism. The objection to the procedure is that the Revenue claim not only *ad valorem* duty upon the transaction but an additional 10s. for the passage of the legal estate, which is not an inseparable incident of the assurance of a mere equitable interest. The claim is no doubt justified.

Does a Class C House Remain De-controlled ?

Q. 3308. As subscribers to the Solicitors' Journal, we seek your assistance on a point which has for some time perplexed us, but which having now arisen in practice we are desirous of pursuing on behalf of our client. Our question may be sub-divided into two sub-headings, thus :—

(*a*) Does any dwelling-house (Class C) which, prior to the passing of the Rent Act, 1933, had not before that date been subject to the earlier Rent Acts, but which had it so been should have been registered as de-controlled—and was not so registered—become thereafter controlled or does it by reason of its immunity from the earlier Acts continue to remain immune from the effect of the Act of 1933 ?

(*b*) The material date given in the Act of 1933 for the purpose of the rateable value of any house within the scope of the Act is the 1st April, 1931. Is the rateable value as at that date the only determining factor for the purpose of ascertaining the position with regard to any property or is such affected in any way by a subsequent alteration in the position as between the 1st April, 1931, and the passing of the Act of 1933 ?

An example may help to clarify our queries, viz. : A client of ours is the freeholder of a property which as at the 1st April, 1931, was rated £20 per annum net basement and £52 per annum net the remainder of the house. In May, 1931, the house was re-assessed as a whole at £90 gross, £68 net. The basement of the house had been let by her for some years but certainly not, we think, prior to 1923. The remainder of the property was in the personal occupation of our client until November, 1931, after which date she created three sub-tenancies. It appears, therefore, with the possible exception of the basement, that at no time was the house subject to the earlier Rent Acts. At the passing of the Rent Act, 1933, there were in fact four tenancies, all of which had they been subject to the preceding Acts would have constituted Class C dwelling-houses within the meaning of the Act of 1933. None of the tenancies were of course registered as being de-controlled. Our client is now desirous of getting rid of the tenant of the top floor flat, and the question arises as to whether or not this tenant is afforded protection under the 1933 Act or not.

A. (*a*) The general opinion is that any Class C dwelling-house which prior to the passing of the Rent and Mortgage Interest Amendment Act, 1933, had not been subject to the earlier Acts did not become subject to the Acts on the passing of the Act of 1933, unless "let" at that date.

(*b*) The material date given in the Act of 1933 for the purpose of the rateable value of any house within the scope of the house in London is the 1st April, 1931. A subsequent alteration in the rateable value would not appear to affect the position. Reference may be made to *White and Another* v. *Bembridge* (1934), 41 T.L.R. 31, where the meaning of "rateable value" was discussed.

Restrictive Covenants—Whether Affected by the Rule against Perpetuities.

Q. 3309. A has agreed to sell a piece of freehold land to B. B has agreed to covenant with A never to build on a portion of such piece of land. Such covenant will be expressed to be for the benefit of A and his successors in title as the owners of premises adjoining the said piece of land. Will such covenant be binding in perpetuity, or would it be better to make it for lives in being and a subsequent twenty-one years ?

A. A restrictive covenant (not amounting to a limitation of property) unlimited in point of time does not offend the rule against perpetuities (*London & South Western Ry. Co.* v. *Gomm* (1882), 20 Ch. D. 562 ; *Mackenzie* v. *Childers* (1889), 43 Ch. D. 265). There is thus no need to limit the covenant in the way suggested.

To-day and Yesterday.

LEGAL CALENDAR.

18 MAY.—On the 18th May, 1311, Ralph de Hengham, formerly Chief Justice of the King's Bench, died. He was buried in St. Paul's Cathedral.

19 MAY.—The power of the press-gang to seize men for the Navy was not unlimited. When they raided a ship, for instance, they might not carry off the master. On the 19th May, 1762, a case came on at the Guildhall in which the captain of a trading vessel was plaintiff and the lieutenant of a man-of-war defendant. The action was for impressing him out of his own ship knowing him to be the captain and confining him for forty-eight hours on board a tender. We are told that "the trial lasted near an hour"—it seems very expeditious. The jury awarded the plaintiff £200 damages.

20 MAY.—On the 20th May, 1878, the great case of *Bagot* v. *Bagot*, which had lasted for twenty-one days in the Court of Probate in Dublin, came to an end. Christopher Bagot of the County of Galway had left an immense fortune and a will, dividing it among his relatives. His widow challenged the will on the ground of insanity, producing a first-class family squabble. She accused the brothers and sisters of fraud and they retaliated with scandalous charges. In the end the jury found for her, after being long divided, eleven to one. Her counsel in a burst of jubilation proposed that they should be paid a guinea a day, but counsel for the defendants insisted on the usual guinea for the whole case.

21 MAY.—While the King was going to Parliament in state in January, 1790, a stone was thrown at his coach by a tall man dressed in a scarlet coat, black breeches, striped waistcoat and a cocked hat with an orange cocade. On the 21st May he was tried at the Old Bailey for high treason, but the jury acquitted him, being satisfied that he was a lunatic. We are told that "he was tried in the most solemn manner and the Attorney and Solicitor-General behaved on this occasion with becoming humanity."

22 MAY.—The Lampeter Brethren believed that the day of prayer was past and the time of judgment arrived, and so used prayer no more, but made perpetual praises to God, had community of goods, and lived in a state of constant joyousness in an Agapemone or "Abode of Love." All this most unfavourably impressed Vice-Chancellor Knight Bruce when one of the brethren, having separated from his wife, tried to get custody of his child. The case was heard on the 22nd May, 1850. In particular, the judge said that one who holds "that there is not any day of the week which ought to be observed as a Sabbath or as one of peculiar holiness" entertained "opinions noxious to society, adverse to civilisation, opposed to the usages of Christendom."

23 MAY.—Mrs. Maria Teresa Phipoe was not the gentlest of her sex as John Courtay discovered when, being at her house at Hans Town in Brompton, he found himself seized by her and her maid, fastened in a chair and threatened with death unless he signed a promissory note for £2,000. Even when he had complied, she offered him the alternative of arsenic, pistol or knife, and he only escaped after a struggle. The maid subsequently turned King's Evidence and the mistress was capitally indicted at the Old Bailey on the 23rd May, 1795. The jury found her guilty.

24 MAY.—Lord Esher died at his house in Ennismore-gardens on the 24th May, 1899, less than two years after his retirement from the office of Master of the Rolls. He was buried at Esher beneath a marble tomb, already prepared by himself, adorned with recumbent effigies of himself and his wife. In the Court of Appeal he was a striking personality and showed himself a great judge, his chief faults being a superabundance of interlocutory judicial comment and an excessive contempt for technicality which did not always stand the test of appeal to the House of Lords.

THE WEEK'S PERSONALITY.

Ralph de Hengham may truly be taken as the father of the common law judges. He was the first Chief Justice who never buckled on armour, but contented himself with the ermined robe. His career, however, well illustrates the vicissitudes of a judge's life in the thirteenth century. In 1270, he became a Justice of the King's Bench at a salary of £40 a year. Two years later he was transferred to the Common Pleas. In a short time he was back again in the King's Bench, where soon afterwards he became Chief Justice. Fifteen years later scandal shook him out of his place. He was accused of some form of judicial misconduct—one tradition says that he falsified a record to reduce a fine imposed on a poor man. He was dismissed, and ironically enough subjected to an enormous fine, which according to Coke was applied to the building of a clock tower near Westminster Hall. Judges often alluded to the story, and Southcote, J., in the time of Elizabeth, in refusing to alter a record, said that he did not mean to build a clock-tower. He remained eclipsed for over ten years, being re-appointed to the Bench in 1301. On his tomb, when he died, was placed the inscription :—

"Per versus patet hos Anglorum quod jacet hic flos ;
Legum qui tuta dictavit vera statuta,
Ex Hengham dictus Radulphus vir benedictus."

THE LAST WORD.

There was something of the Birkenhead touch in the retort recently reported of a young barrister whose mature opponent had said of his arguments : "When my friend is my age, he will not be making submissions like that." "When I am my friend's age," replied the young man, "I will be listening to submissions, not making them." Youth instinctively answers back, and there is a story of a very young man who was appearing before Watkin Williams, J., for the first time. The judge, not knowing his name, sent down a note of inquiry to the usher who, instead of finding out indirectly, went straight to the counsel and said : "The judge, sir, wishes to know your name." The reply came in audible tones : "Oh, my name is Jones. I'm not ashamed of it. What is the name of the judge ?" I suppose the classic retort came from the barrister who, after treating a certain legal proposition as incontrovertible, was asked for authority by Lord Chief Justice Cockburn. "Oh, my lord," he replied, "I should not have thought any authority was required for so well established a principle. Here, usher, just get 'Blackstone' or 'Chitty' or some other elementary book and hand it up to his lordship."

NO OATHS IN EVIDENCE.

"This drawing-room scene does not commend itself to me," said Mr. Justice Langton recently when witnesses told him that all the pilot of a cargo steamer said when the ship grounded in Barking Reach was, "We're aground." The judge said : "It is difficult to believe that all the pilot said—rather after the manner of one of Jane Austen's heroes—was 'We're aground.'" Williams, J., is said to have been equally sceptical on one occasion and with much less cause. On an application for a new trial, he read aloud from judge's notes the words : "When the plaintiff was asked to pay for the goods, he said he would see them damned first." Counsel who were following from their own notes interrupted to say : "We have it that the plaintiff said he would see the goods delivered first." Williams replied : "What I have is d——d and if that does not mean damned, I am damned myself." In fact, the judge who tried the case had abbreviated the word "delivered" to "dd" never thinking of the possible misconception.

Notes of Cases.

Judicial Committee of the Privy Council.

In the Matter of a Special Reference under the Government of Northern Ireland Act, 1920.

The Lord Chancellor, Lord Thankerton, Lord Maugham, Sir George Lowndes and Sir Sidney Rowlatt.
27th March, 1936.

NORTHERN IRELAND—STATUTORY ENACTMENT REQUIRING LOCAL AUTHORITIES TO LEVY A RATE FOR STATE EDUCATION EXPENDITURE — VALIDITY — FINANCE ACT (NORTHERN IRELAND), 1934 (24 & 25 Geo. 5, c. 13), s. 3—GOVERNMENT OF IRELAND ACT, 1920 (10 & 11 Geo. 5, c. 67), s. 21.

Reference under the provisions of s. 51 of the Government of Ireland Act, 1920.

By s. 3 of the Finance Act (Northern Ireland), 1934, the Parliament of Northern Ireland required local authorities to levy a rate for the purpose of procuring a contribution towards central State expenditure on education. The Corporation of Belfast challenged the section as being an enactment outside the competence of the government of Northern Ireland. Section 3 (1) of the Act of 1934 provided that county and county borough councils should pay an annual contribution to the exchequer of Northern Ireland and that they should raise it by means of the poor rate. By s. 21 (1) of the Government of Ireland Act, 1920, that government were empowered to levy taxes other than income tax or any other tax "substantially the same in character."

LORD THANKERTON, in delivering the judgment of the Board, said that their Lordships would assume, although there was no need to decide the question, that the tax was, as contended for the corporation of Belfast, a tax imposed on the ratepayers by the central authority. It therefore remained to consider the second contention of the Corporation, namely, that the tax so imposed by the central authority on the ratepayer was "substantially the same in character" as income tax. Counsel for the Corporation sought to establish that substantial similarity in character by a detailed comparison of the provisions of the Income Tax Act, 1918, under sched. A, and, in particular, sched. B, with the provisions of the Poor Relief (Ireland) Act, 1838, along with the fact that under s. 187 (1) of the Income Tax Act, 1918, the value of all tenements and rateable hereditaments for the purposes of scheds. A and B was ascertained primarily according to the valuation for poor rate purposes. In the opinion of their Lordships, however, it was the essential character of the particular tax charged which was to be regarded, and the nature of the machinery—often complicated—by which the tax was to be assessed was not of assistance, except in so far as it might throw light on the general character of the tax. Such an examination as counsel for the Corporation invited their Lordships to undertake would tend to narrow the legislative powers of taxation of the Parliament of Northern Ireland almost to the vanishing point, whereas, by s. 21 (1) of the Act of 1920, legislative powers were conferred in general terms, subject only to the specified exceptions. Lord Macnaghten had described the character of income tax in a well-known passage in *London County Council* v. *Attorney-General* [1901] A.C. 26, at p. 35. The purpose of the Income Tax Acts was to tax a person's total income from all sources. The method of assessing income derived by ownership or occupation of hereditaments was somewhat arbitrarily based on annual value and not on actual income, but that did not alter the essential characteristic of income tax that it was a tax on income generally. On the other hand, the poor rate was levied in respect of the occupation of hereditaments, irrespective of a person's income generally, and irrespective of whether the ratepayer was in fact deriving profits or gains from such occupation. In their Lordships' opinion that marked the essential difference in character between income tax and rates, and it was unnecessary to consider other and less important differences between them. Their Lordships were therefore of opinion, even assuming that under s. 3 of the Finance Act, 1934, a tax was imposed on the ratepayers by the central authority, that such tax was not substantially the same in character as income tax, and that the provisions of s. 3 were within the powers of the Parliament of Northern Ireland. Their Lordships would humbly advise his Majesty accordingly.

COUNSEL: *Gavin Simonds*, K.C., *J. M. Whitaker* and *J. C. MacDermott* for the Corporation of Belfast; *A. B. Babington*, K.C. (Attorney-General for Northern Ireland), *Harold Murphy*, K.C., and *J. Desmond Chambers* for the Government of Northern Ireland.

SOLICITORS: *Dyson, Bell and Co.; Linklaters and Paines.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Court of Appeal.

In re the Debtors (No. 836 of 1935).

Lord Wright, M.R., Romer, L.J., and Charles, J.
3rd April, 1936.

BANKRUPTCY—ASSIGNMENT FOR THE BENEFIT OF CREDITORS —OPERATING ACCORDING TO FOREIGN LAW—WHETHER AN ACT OF BANKRUPTCY—BANKRUPTCY ACT, 1914 (4 & 5 Geo. 5, c. 59), s. 1.

Appeal from a decision of Mr. Registrar Mellor.

The debtors carried on business as private bankers and financial agents in Paris (where they had their head office and resided for some time), London, Amsterdam, Shanghai and elsewhere. In July, 1935, they left Paris and closed their offices there and subsequently, being American citizens domiciled and resident in New York, executed in accordance with the local law a conveyance or assignment of their property to a trustee for the benefit of their creditors. The manager of the London branch, an Englishman, had already realised the assets in London and distributed the proceeds to the English creditors who were paid in full. A Belgian creditor now presented a petition in bankruptcy relying on the conveyance in New York as an act of bankruptcy. The learned registrar dismissed the petition.

LORD WRIGHT, M.R., dismissing the appeal of the petitioning creditor, referred to the Bankruptcy Act, 1914, and said that the definition of "debtor" in s. 1 (2) (*c*) applied, since the debtors here were "carrying on business in England personally or by means of an agent or manager." They had made a conveyance in New York and the appellant argued that nothing more was necessary. But in *Cooke* v. *Vogeler* [1901] A.C. 102, it had been decided that the debtors in that case were not debtors within the meaning of the Bankruptcy Act, 1883, and also on entirely different grounds that such a conveyance was not an act of bankruptcy. Since the definition in the Act of 1914, the first ground no longer applied. But a conveyance operating according to foreign law was not an act of bankruptcy. The new Act had not made *Cooke* v. *Vogeler*, *supra*, inapplicable on this point.

ROMER, L.J., and CHARLES, J., agreed.

COUNSEL: *C. Salmon; Croom-Johnson*, K.C., and *R. Goff.*

SOLICITORS: *Kenneth Brown, Baker, Baker; Gordon Dadds & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Stevens *v.* Walker.

Lord Wright, M.R., Romer, L.J., and Charles, J.
6th April, 1936.

PRACTICE—INJURY BY ACCIDENT—CLAIM FOR DAMAGES IN HIGH COURT—APPLICATION FOR TRANSFER TO COUNTY COURT OR FOR SECURITY FOR COSTS—EXERCISE OF

DISCRETION—PRINCIPLE—COUNTY COURTS ACT, 1919 (9 & 10 Geo. 5, c. 73), s. 2.

Appeal from a decision of du Parcq, J.

The plaintiff commenced an action in the High Court, claiming damages and alleging in his statement of claim that he had sustained grave injuries by reason of the negligence of the driver of the defendant's lorry in which he was a passenger and that, in consequence, he would be incapable of obtaining employment. Before delivery of defence, the defendant applied for security for costs and in default of their being paid to have the action transferred to the county court, alleging, by her affidavit in support, that the plaintiff was a labourer who had been unemployed for nine months and that he was without visible means of paying High Court costs should the verdict be against him. There was no allegation that the defendant had a good defence on the merits. du Parcq, J., ordered the plaintiff to give £25 security for costs and that in default the action should be transferred to the county court.

LORD WRIGHT, M.R., allowing the plaintiff's appeal, said that, under s. 2 of the County Courts Act, 1919, the foundation of the application was that the plaintiff had no visible means of paying the costs, but the judge must also have regard to all the circumstances. This section replaced s. 66 of the County Courts Act, 1888. There was no material difference between the sections (see *Banks* v. *Hollingsworth* [1893] 1 Q.B. 442). There was seldom a difficult point of law in running down cases, but often a serious question of the amount of damages. The court must have regard to the fact that the county court judges were not used to handling very substantial sums. It was also material to consider whether the plaintiff had a good *prima facie* case. It had been the practice to state in the affidavit in support that the defendant had a good defence on the merits, though this was stated in "Chitty's King's Bench Forms" (7th ed.), p. 1020, not to be necessary. If it was not inserted, however, the judge should inquire. Such an application should not be made till the defence was delivered or at least, the defendant had made an affidavit that he had a good defence. In exercising his discretion, the judge should consider the severity of the injuries alleged and whether there was a probable *prima facie* defence. Here he seemed to have been of opinion that the relevant matter was whether a difficult question of law was likely to arise.

ROMER, L.J., and CHARLES, J., agreed.

COUNSEL: *Clothier*, K.C., and *Henry Maddocks*. (The respondent did not appear.)

SOLICITORS: *Maude & Tunnicliffe*, agents for *Green & Williamson*, of Wakefield.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Appeals from County Courts.

Rodenhurst Estates Ltd. *v.* W. H. Barnes Ltd.

Merriman, P., Scott, L.J., and Eve, J.
21st and 22nd April, 1936.

LANDLORD AND TENANT—LEASE—LICENCE TO TENANT TO ASSIGN TO COMPANY—NO ASSIGNMENT MADE—COMPANY IN POSSESSION PAYING RENT—LIABILITY UNDER LEASE.

Appeal from Southwark County Court.

The plaintiffs, being landlords of a shop, leased it in 1928 to W. H. Barnes, at a rent of £115 a year. In 1930 the tenant formed a company, W. H. Barnes Limited, who agreed to take over the business carried on by him and to take over his lease. The landlords, being informed, gave licence for the assignment of the lease but no formal assignment was, in fact, made. The new company, having entered into possession of the premises and put up their own name over them, paid the rent direct to the landlords till April, 1935, and continued in possession till June, 1935. W. H. Barnes died in 1931. The landlords having brought an action to recover from the company £41 10s., being one quarter's rent and insurance in respect of the premises, the defendants denied liability. The learned county court judge gave judgment for the plaintiffs, holding that in giving licence to assign they were agreeing to the defendant being in possession as assignees and not otherwise and that on the facts of the case the defendants should be estopped from denying that they were assignees.

MERRIMAN, P., dismissing the defendants' appeal, said that a mere equitable assignee who as such had entered into possession and paid rent was not thereby rendered liable upon the covenants of the lease. No privity of estate was created between himself and the landlord and, if that were all, the plaintiffs' claim would not be maintainable. But it had been held here that the appellants were estopped from saying that they were not legal assignees. The appellants had argued that there was nothing to distinguish their position from that of a mortgagee who had entered into possession, save that they had entered by virtue of a licence. It was said that the learned judge had wrongly interpreted the licence. But though a licence to part with possession or to underlet might have been asked for, it was a licence to assign which was asked for and granted and that meant that licence to part with possession was given on the footing that in due course a legal assignment would be executed. However, because there was a common practice of allowing people to take possession in advance of the actual assignment it had been argued from *West* v. *Dobb*, L.R. 5, Q.B. 460, that the granting of a licence created for the remaining unexpired term of the lease a right on the part of the proposed assignee to remain in possession as equitable assignee with no obligations towards the landlord and no obligation to execute an assignment. That was not the law. Assuming that the licence imported as of right a licence to go into possession in advance of the assignment, which his lordship was not prepared to admit, it meant at most that he could go in on condition that within a reasonable time a formal assignment was executed. His lordship thought that strictly, possession might not be taken till the assignment was executed. *West* v. *Dobb*, *supra*, was not an authority for the proposition in support of which it had been cited. Further, there was evidence on which an estoppel could be found. By the time the appellants had entered into possession and had continued quarter after quarter to pay the rent they must have intended to be representing that they were doing so because a legal assignment, as contemplated, had, in fact, been executed. The appellants had relied on *Stratford-upon-Avon Corporation* v. *Parker* [1914] 2 K.B. 562, but these landlords had changed their position in the belief that the assignment had been affected, by allowing, figuratively speaking, the tenant to take all his goods off the premises and the appellants to put their goods there, thus leaving nothing belonging to the tenant on which they could distrain for rent. If this was done in reliance on the representation it was a change of position for the worse on the part of the landlords and material on which an estoppel could legitimately be inferred.

SCOTT, L.J., and EVE, J., agreed.

COUNSEL: *Eversheed*, K.C. and *J. Bowyer*; *Morris*, K.C. and *H. S. Nichols*.

SOLICITORS: *W. R. Millar & Sons*; *Crowther & Gray*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Heginbottom *v.* Watts.

Greer and Greene, L.JJ., and Talbot, J.
28th April, 1936.

LANDLORD AND TENANT—RENT RESTRICTION—DWELLING-HOUSE—RATEABLE VALUE UNDER £20—SUMMONS FOR POSSESSION—ONUS OF PROVING DE-CONTROL—RENT AND MORTGAGE INTEREST RESTRICTIONS (AMENDMENT) ACT, 1933 (23 & 24 Geo. 5, c. 32), s. 1 (2).

Appeal from Willesden County Court.

The plaintiff, being owner of a house in Kilburn, one room of which was let to the defendant at a rent of 4s. a week, served

a notice to quit which was not complied with. At the hearing of a summons claiming possession the plaintiff tendered evidence as to the defendant's weekly tenancy and the service of the notice to quit, and the certificate of the de-control of the dwelling-house which had been registered by the plaintiff's predecessor in title was put in. The learned county court judge held that the principle of *White* v. *Bembridge* [1935] 1 K.B. 244 did not apply to a Class C house (one of which the rateable value was under £20 a year) and that the onus of showing that such a house had been de-controlled was on the landlord. This onus he held the plaintiff not to have discharged and gave judgment for the defendant.

GREER, L.J., allowing the plaintiff's appeal, said that the order for possession should have been made. The tenant did not prove that immediately before the Rent Restrictions Act, 1933, this was a controlled dwelling-house, nor did he prove what was its rateable value. He did not, therefore, discharge the burden of proof put upon him by the Act: (see *White* v. *Bembridge*, *supra*.)

GREENE, L.J., and TALBOT, J., agreed.

COUNSEL: *Heathcote-Williams* and *L. Blundell* for the appellant. (The respondent did not appear and was not represented).

SOLICITORS: *Seaton & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re Recknell; White *v.* Carter.

Clauson, J. 22nd and 23rd April, 1936.

WILL—CONSTRUCTION—"ALL OTHER MONEY WHETHER INVESTED OR IN THE LONDON & COUNTY BANK"—WHETHER ADJECTIVAL PHRASE—GIFT OF RESIDUE.

The testatrix made her will in 1902 and had not altered it when she died in 1934. After certain dispositions she left "all other money invested or in the London & County Bank" to be divided among her nieces and nephew. In 1902 she was living at Isleworth and banking with the Hounslow branch of the bank mentioned. In 1934 she was living at Bexhill and had changed her bank, having sums on deposit and current account at the local branch of the Midland Bank. She also had furniture and household effects and a small sum due to her as accrued income from certain settled property in which she had a life interest. Certain shares which she had held in 1902 she had since sold. The question now arose whether the gift to the nieces and nephew was residuary gift or not.

CLAUSON, J., in giving judgment, said that the word "other" implied that something already mentioned had to be taken out—debts and funeral expenses and £100 to her godchild, so that it looked as if "other money" meant all the rest which was available afterwards. But it had been argued that the additional words formed an adjectival phrase making it "all other money of which it can be predicated that it is either invested or in the London & County Bank." Cases on this sort of point were *Drake* v. *Martin*, 23 Beav. 89; *Dean* v. *Gibson*, L.R. 3 Eq. 713; *King* v. *George*, 5 Ch.D. 627; and *In re Roberts*, 55 L.T. 498. Here this was not an adjectival phrase, but one intended to enumerate simply for the information of the executors, and not to qualify the preceding words. This was a residuary gift.

COUNSEL: *Vanneck*; *R. Jennings*; *Lord Swinfen.*

SOLICITORS: *John Ashbridge*; *Duffield, Bruty & Co.*; *Bull & Bull.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re Ray's Will Trusts; Public Trustee *v.* Barry.

Clauson, J., 28th and 29th April, 1936.

WILL—CONSTRUCTION—GIFT TO ABBESS OF CONVENT—ATTESTATION BY TWO NUNS OF THE COMMUNITY—ATTESTING WITNESS ELECTED ABBESS—WHETHER ABBESS TOOK AS TRUSTEE—VALID GIFT—WILLS ACT, 1837 (7 Will. 4, and 1 Vict., c. 26), s. 15.

A nun in a convent was possessed of no property, but a power of appointment over a sum of £3,000 under the will of her father. In 1932, she made a will in these terms: "I give all my property to the person who at the time of my death shall be or shall act as Abbess of the said convent absolutely, and I appoint her the executrix of this my will." It was attested by two other nuns, members of the community. In 1934, one of the attesting witnesses was elected Abbess. The testatrix died in 1935. The Public Trustee, as trustee of her father's will, refused to pay over the money without an order of the court. There was evidence that the religious community consisted of about twenty-seven nuns, following the rule of the Third Order of St. Francis. The Abbess governed the affairs of the community controlling the expenditure for its benefit, and all property belonging to it. She was elected by the senior members of the community. A new Abbess was elected every three years, the former Abbess retiring unless re-elected. In addition, another member held the position of Vicaress, who presided over the community in the absence of the Abbess, and if she died during her term of office, filled her place till the election of a new Abbess.

CLAUSON, J., giving judgment, said that if full effect were given to the terms of the will, it undoubtedly operated to exercise the power of appointment. A testator might leave property to the person who at the time of his death should be an officer of a certain society for his personal benefit, though he was *ex hypothesi* ignorant of his personality. Or he might leave a legacy to the officer of a voluntary society to be applied for the benefit of that society, though if it was indicated that the gift was subject to the fetter that the capital was to be set aside, the income only being used, the court would not give effect to the gift as infringing the rule against perpetuities. Again, a testator might give a legacy to the officer of a voluntary society expressed in such terms that it was to belong to the members individually, so that it was the officer's duty to divide it up among them. In the present case, leaving aside for the moment the word "absolutely" and realising that the testatrix must have known that even the temporary absence of the Abbess might leave the acting Abbess in her place so that the personality of the beneficiary was of no importance at all in comparison with her office, it appeared that this was a gift to her in her capacity as officer of the society for the purposes of the society. A difficulty arose through the use of the word "absolutely." But this meant that the recipient was to be free from any fetter binding her to keep the fund intact for the purposes of the community. It was to go into the funds of the society and be used without fetter for any purposes of that society. This was a good gift to the Abbess as part of the property of the society. It had been said that the will was attested by the lady whose hand received the gift, but if she received as trustee only this was no ground of objection. It had also been argued that the ladies who attested the will being both members of the community, the gift would enure in some sense for their benefit. But it would not be a fair construction of the Wills Act, 1837, s. 15, to hold that they got a benefit amounting to a beneficial legacy. The point failed.

COUNSEL: *T. A. C. Burgess*; *Hon. Charles Russell*; *Wilfrid Hunt*; *Henry Johnston.*

SOLICITORS: *Hobson & Cobbett*; *Witham & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re Skeats; Thain *v.* Gibbs.

Clauson, J. 6th May, 1936.

WILL—CONSTRUCTION—WIFE APPOINTED EXECUTRIX—DIRECTION TO PAY DEBTS AND FUNERAL EXPENSES—NO GIFT OF PROPERTY—EFFECT—ADMINISTRATION OF ESTATES ACT, 1925 (15 Geo. 5, c. 23), s. 46.

In 1912 the husband of M. Skeats made a will on a printed form revoking all previous wills and appointing his wife his sole executor. He directed that all his just debts and funeral and testamentary expenses should be paid, but though the will contained the printed words "I give and bequeath unto . . ." the blank following was not filled up. The will was duly executed and attested, but contained no gift or other disposition of property. The husband having died in 1920, his widow took possession of all his assets, the value of which was about £3,650, making no distinction between her property and his. By her will made in 1929 she gave all her residuary estate to the defendant Gibbs, whom she appointed executrix. She died in 1935. The question arose whether the widow had by virtue of her appointment as sole executrix of her husband's will or otherwise become beneficially entitled to the whole of his residuary estate, or whether it went as on an intestacy under s. 46 of the Administration of Estates Act, 1925.

CLAUSON, J., in giving judgment, said that the effect of the will was to give the widow £1,000, and, subject thereto, to make her trustee for the next of kin defined in s. 46. The Act defined "intestate" as including one who made a will, but did not effectively dispose of part of his property. Save that the class constituting the next of kin was reduced by the Act, the law remained as it had been since the Executors Act, 1830.

COUNSEL: *Stranders; F. E. James; W. Waite.*

SOLICITORS: *Langford, Borrowdale & Thain; Samuel Price & Sons.*

[Reported by FRANCIS H. COWPER Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Faber *v.* Commissioners of Inland Revenue.

Lawrence, J. 16th and 17th March, 1936.

REVENUE—STAMP DUTY—CONVEYANCE ON SALE—ANNUITY—PROFESSION CARRIED ON IN UNITED KINGDOM—CONTRACT FOR SELLING ANNUAL EARNINGS TO CANADIAN COMPANY FOR SHARES AND DEBENTURES IN THE COMPANY—DEED EXECUTED IN CANADA—ASSESSMENT OF STAMP DUTY—STAMP ACT, 1891 (54 & 55 Vict., c. 39), ss. 14 (4), 55, 60; Sched. I—FINANCE (1909-1910) ACT, 1910 (10 Edw. 7, c. 8), s. 73.

Appeal, on a case stated, from a decision of the Commissioners of Inland Revenue.

The appellant, Faber, was a consulting and constructional engineer practising in the United Kingdom. On the 31st March, 1933, he entered into an agreement in Canada with a Canadian company, whereby the company allotted to him or his nominees 10,000 of its 5-dollar shares and $250,000 of its 20-year non-interest-bearing redeemable gold debentures, and he covenanted to pay the company, while he should continue to practice as an engineer, every year on the 31st March, a sum equal to nine-tenths of the total income derived from his profession in that year, the first payment being due on the 31st March, 1933. In calculating the appellant's professional income, the deduction allowable did not include any income tax on it payable in the United Kingdom. The appellant's professional earnings for the year ended the 31st March, 1933, were £18,717, the amount payable to the company being £16,719. The deed having been presented to the Commissioners for adjudication of stamp duty, they were of opinion (1) that it was liable, in particular, under s. 60 of the Stamp Act, 1891, to *ad valorem* duty under the head "Conveyance on sale," as being deemed to be a conveyance on sale in consideration of the allotting of shares and debentures in the company; (2) that the debentures were marketable securities for the purpose of s. 55 of the Act of 1891; (3) that the value of the shares and debentures should be taken as nine-tenths of the appellant's income for the year ended the 31st March, 1933, calculated as agreed, together with an additional three years' purchase of nine-tenths of his annual income estimated on the basis of that year, less £1,000 for expenses of management—namely, £64,226; (3) that, if the debentures were not marketable securities for the purpose of s. 55, the consideration represented by them should be taken to be the amount due on the deed for principal under the debentures with premium, which was $275,000, and that the shares should be taken at their par value of $50,000, and that the consideration thus calculated was not less than £64,226. The Commissioners accordingly assessed the duty at £642 10s. *ad valorem* on a "Conveyance on sale," for a consideration of £64,226, under the Act of 1891, and s. 73 of the Finance (1909-1910) Act, 1910. The appellant contended (1) that the deed was not liable to duty under the Act of 1891 at all; (2) that, if it was liable, it was to a deed stamp of 10s.; (3) that, if it were liable to *ad valorem* duty as contended by the Commissioners, the consideration for the sale was a nominal sum not exceeding £50.

LAWRENCE, J., said that the appellant had argued that the deed was not an instrument relating to any matter or thing done or to be done in the United Kingdom, and that, therefore, by implication, s. 14 (4) of the Act of 1891 did not apply to it, since the conditions laid down by the sub-section did not exist. It had further been argued that the deed had been executed, and that the company was domiciled, in Canada; that the appellant's business need not be carried on in England, and that it had merely been used as a measure of the amount to be paid. The Crown contended that the deed related to a matter or thing done in the United Kingdom, inasmuch as the appellant practised there and the deed provided that it should be construed according to English law; reference was made to *Commissioners of Inland Revenue* v. *Maple & Co. (Paris) Ltd.* [1908] A.C. 22, where Lord Macnaghten, at p. 26, said that the words "relating to" in s. 14 (4) were the most general and far-reaching words. In his (his lordship's) opinion, the deed did relate to a matter or thing done or to be done in the United Kingdom. In view of the terms of s. 55, he (his lordship) was of opinion that this transaction was the sale of an annuity, notwithstanding that the consideration for it was stocks and debentures, and not pecuniary. Finally, it had been said for the appellant that the nominal value which had been put on the securities was not necessarily their true value. In *In re Wragg Ltd.* [1897] 1 Ch. 796, however, it had been laid down that, as long as a transaction, into which a company entered with reference to shares, was unimpeached, their nominal value ought to be taken as their true value. The conclusion reached by the Commissioners must be upheld.

COUNSEL: *R. Needham*, K.C., and *A. A. Uthwatt*, for the appellant; *The Solicitor-General* (Sir Donald Somervell, K.C.) and *J. H. Stamp*, for the Crown.

SOLICITORS: *Mills, Lockyer, Church & Evill; Solicitor of Inland Revenue.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Attorney-General *v.* Cohen and Another.

Lawrence, J. 18th March, 1936.

REVENUE—STAMP DUTY ON CONVEYANCES—AUCTION SALE—SEVERAL CONTIGUOUS SITES BOUGHT IN SEPARATE LOTS BY ONE PURCHASER FROM THE SAME VENDOR—WHETHER A "SERIES OF TRANSACTIONS"—FINANCE (1909-10) ACT, 1910 (10 Edw. 7, c. 8), s. 73.

Action, in the nature of a test action, tried on an agreed statement of facts which was as follows: At a sale by public auction certain dwelling-houses were offered for sale in twelve separate lots. Separately and at various times during the auction, the defendants made bids in respect of six of the separate lots, all of which belonged to the same vendors. The bids were accepted. Four of the lots were sold for a sum less than £500 each. Immediately after the auction, six separate formal contracts of sale were signed by the defendants, and

each contract was separately stamped. Six separate abstracts of title were supplied by the vendors, and the properties were subsequently conveyed to the defendants by six separate conveyances. The four conveyances dealing with the lots sold for less than £500 each contained the certificate required by s. 73 of the Finance (1909-1910) Act, 1910, that the transaction did not form part of a larger transaction, or of a series of transactions, of which the amount or value, or the aggregate amount or value, of the consideration exceeded £500. All the houses sold were situated in the same street. By s. 73, the stamp duties chargeable on conveyances are double those specified in Sched. I to the Stamp Act, 1891, unless the consideration for the sale does not exceed £500, "and if the instrument contains a statement certifying that the transaction thereby effected does not form part of a . . . series of transactions in respect of which . . . the consideration exceeds £500." It was contended for the Crown that stamp duty at the higher rate was payable on each of the conveyances.

LAWRENCE, J., giving judgment, said that, in his opinion, some limitation must be put on the words "series of transactions" other than that put on them by the Solicitor-General—namely, that the events constituting the series must have taken place at or about the same time. It was true that the original meaning of the word "series" was a succession of events, but he (his lordship) did not think that the mere fact that a person entered into two or more conveyances at about the same time made those conveyances into a series. He could not agree that there was a series of transactions where the vendors were different, the land conveyed was in different parts of the country, and the only identity was in the person of the purchaser and the time of the purchase. A sale by auction raised different considerations from a sale by private negotiation. It might be that, where a number of conveyances of sale were negotiated privately between parties at or about the same time, the result would be a series of transactions, within the meaning of s. 73. But there would have to be some interdependence between them, and whether or not that was so must depend on the circumstances of each case. Where lots were bought at auction and there was no evidence of circumstances known to the vendor which in any way connected the various lots so as to make the bids of the purchaser for one lot depend on the result of his bids for other lots, there was no series of transactions within the section. In his (his lordship's) view, the circumstances in this case that all the bids were made at about the same time and that the sites of the subject-matter were contiguous were both casual matters, which did not constitute the separate conveyances a series. There must be judgment for the defendants.

COUNSEL: *The Solicitor-General* (Sir Donald Somervell, K.C.), and *J. H. Stamp*, for the Crown; *Neville Laski*, K.C., and *A. Hurwitz*, for the defendants.

SOLICITORS: *Solicitor for Inland Revenue; Messrs. Dale and Phelps*, for *Sebag, Cohen & Co.*, Sunderland.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Countess of Shrewsbury *v.* **Commissioners of Inland Revenue.**

Lawrence, J. 22nd and 23rd April, 1936.

REVENUE — INCOME TAX — SUPER-TAX AND SUR-TAX — ANNUITY PAYABLE "CLEAR OF ALL DEDUCTIONS WHATSOEVER FOR TAXES . . ."—AMOUNT WHICH WOULD HAVE BEEN PAYABLE AS INCOME TAX WHETHER ASSESSABLE TO SUPER-TAX—SHREWSBURY ESTATE ACT, 1843 (6 & 7 Vict. c. xxviii), ss. 7, 9, 10—SHREWSBURY ESTATE ACT, 1862 (25 & 26 Vict. c. v).

Appeal, by case stated, from a decision of Commissioners for the Special Purposes of the Income Tax Acts.

The Shrewsbury Estate Acts, 1843 and 1862, contain provisions relating to the Shrewsbury Estates. By s. 7 of the Act of 1843, any owner in possession of the estates may appoint to his wife for her jointure an annual sum not exceeding £3,000, "clear of all deductions whatsoever for taxes or otherwise," and to be charged on the estates. By deed dated the 20th July, 1910, and made in pursuance of the Acts, the then Earl of Shrewsbury granted to his wife, the appellant, for her jointure two yearly rent-charges of £1,500 each "clear of all deductions whatsoever for taxes or otherwise." On the 24th October, 1923, in *In re Shrewsbury Estates Act; Shrewsbury* v. *Shrewsbury* [1924] 1 Ch. 315, the Court of Appeal ordered that, on the true construction of the Acts and the deed, the "said two jointure rent-charges of £1,500 each were respectively payable free of income tax (other than super-tax)." For the years 1928-29, 1929-30, 1930-31, 1931-32, 1932-33 and 1933-34, the appellant had been assessed by the respondents to super-tax and sur-tax in respect of the £3,000 jointure rent-charges without any addition to them for income tax. The respondents subsequently made additional assessments to super-tax and sur-tax on the appellant for those years in order to bring into charge amounts equivalent to the income tax which would have been deductible if the rent-charges had been of such sums as would, after deduction of income tax, amount to £1,500 each. The appellant having appealed to the Special Commissioners against the additional assessment, it was contended on her behalf (1) that the rent-charges were not net sums resulting after deduction of income tax; (2) that, consequently, nothing could be added to them in respect of income tax. It was contended for the respondents that on the true construction of the acts and deed the rent-charges totalling £3,000 a year were a net sum after deduction of income tax; (2) that the appellant was properly assessable to super-tax and sur-tax in the appropriate amounts of income tax attributable to the rent-charges for the years in question. The Special Commissioners were of opinion that the words "clear of all deductions whatsoever for taxes" should be construed as meaning "free of income tax," and that, for purposes of super-tax and sur-tax, income tax must be added to the rent-charges in calculating the appellant's liability. They accordingly affirmed the additional assessments.

LAWRENCE, J., said that the question depended on the construction of the words "clear of all deductions whatsoever for taxes or otherwise" in the Act of 1843, and the deed of jointure of 1910. The appellant contended that the formal order in *Shrewsbury* v. *Shrewsbury, supra*, did not accord with the reasoning in the judgments. He (his lordship) did not agree. It was impossible to read any of the judgments in that case except as meaning the effect of the Act of 1843 to have been that the jointures were granted free of income tax in the sense that the annuitant must be taken, for the purposes of super-tax, to have received both the amount of the annuity and the tax on it. He (his lordship) thought himself bound by that decision to hold that the sum assessable to super-tax and sur-tax was the amount of the annuities with the income-tax on them. Annuities were granted in various ways. Sometimes a sum was granted free of income tax; such a sum might, on the other hand, be granted as, after deduction of tax, left a sum of the intended amount. It had been said for the appellant that there was a third class of annuity where a sum was granted from which the payee had a right to deduct income tax, although he did not exercise the right; and reference had been made to *Neumann* v. *Commissioners of Inland Revenue* [1934] A.C. 215. In his (his lordship's) opinion, that case was not applicable. *North British Railway Co.* v. *Scott* [1923] A.C. 37, was a more appropriate authority and tended to support the view that this appellant must be taken to have received the annuity with the amount of the income tax on it. The words "clear of all deductions" did not include super-tax, which was not imposed by way of deduction. The appeal must be dismissed.

COUNSEL: *J. M. Tucker*, K.C., and *Cyril King*, for the appellant; *The Attorney-General* (Sir Donald Somervell, K.C.) and *R. P. Hills*, for the respondents.

SOLICITORS: *Nicholson, Freeland & Shepherd; Solicitor of Inland Revenue.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Evans *v.* **Hassan and Matthews.**

Lord Hewart, C.J., du Parcq and Goddard, JJ.
28th April 1936.

ROAD TRAFFIC—MOTOR COACH—ROAD SERVICE LICENCE—CONVEYANCE OF A PRIVATE PARTY—OFFENCE OF USING A VEHICLE NOT UNDER ROAD SERVICE LICENCE WHERE SUCH LICENCE REQUIRED—*Mens rea*—ROAD TRAFFIC ACT, 1930 (20 & 21 Geo. 5 c. 43), s. 72 (1), (10), ROAD TRAFFIC ACT, 1934, (24 & 25 Geo. 5, c. 50), s. 25.

Appeal by case stated from a decision of Brentford, Middlesex, Justices.

On the 15th October, 1935, informations were preferred by the appellant, Evans, an examiner for the Metropolitan Traffic Area, against the respondent Hassan for that, on the 5th June, 1935, he used two motor vehicles as express carriages otherwise than under a road service licence, contrary to s. 72 (1) and (10), of the Road Traffic Act, 1930, and against the respondent Matthews for that, at the same time and place, he caused the vehicles to be so used, contrary to s. 72 (1) and (10). At the hearing of the informations, the following facts were proved or admitted: Hassan carried on business as a proprietor of motor omnibuses and coaches, and was at all material times the holder of a road service licence for the purpose of the Act of 1930, which licence was, however, not applicable to the journey being made by the vehicles in this case. Hassan had no authority to use any motor coach or express carriage for the journey in question. In May, 1935, Matthews, the manager of a cinema, advertised on the screen of his cinema that the management would be running private coaches to Epsom on the 5th June, and that tickets at 6s. could be obtained at the box office. Matthews then arranged with Hassan that he should supply two motor coaches at an inclusive price. Matthews told Hassan that the coaches were required for private parties, but Hassan knew that the persons constituting the parties were paying separate fares. Matthews did not ask Hassan whether he had a road service licence to cover the journey in question. Hassan, while aware that his licence did not apply to the journey, considered that the coaches were being used for the conveyance of private parties. He did not keep any work ticket in respect of the journey as required under s. 25 (1) (*g*) of the Road Traffic Act, 1934. Under that section, another of the conditions to be satisfied if a vehicle is to be deemed to be used for the conveyance of a private party on a special occasion is, in para. (*b*), that there shall have been no previous advertisement to the public of the arrangements for the journey. For the appellant, it was contended that the coaches were not being used for the conveyance of a private party, that the journey could therefore only be operated legally under a road service licence applicable to it, and that each respondent was guilty of the offence charged. The justices found that Hassan was unaware that the passengers carried did not constitute a private party. They held that he had therefore committed no offence and that Matthews had consequently not caused any offence to be committed, and they dismissed the informations.

LORD HEWART, C.J., said that the appeal ought, in his opinion, to be allowed. Whatever doubt might have existed at one time with regard to what a private party was, there was no longer any doubt since the enactment of s. 25 of the Road Traffic Act, 1934. Section 25 (1) (*g*) provided for the keeping of a work ticket. The justices had found that Hassan had kept no work ticket. That being so, the respondents could not be heard to say that this had been a conveyance of a private party, and the case must be remitted to the justices with a direction to find the offences charged proved.

GODDARD, J., referring to the finding of the justices that Hassan had been unaware that the passengers did not constitute a private party, said that he wished to express no opinion on the question whether *mens rea* was or was not necessary for the offences charged.

COUNSEL: *Valentine Holmes*, for the appellant; *Herbert Malone*, for the respondent Hassan. There was no appearance by or on behalf of the respondent Matthews.

SOLICITORS: *The Treasury Solicitor; George Martin & Co.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Davis *v.* **Lisle.**

Lord Hewart, C.J., du Parcq and Goddard, JJ.
30th April, 1936.

POLICE—RIGHT TO ENTER PRIVATE PREMISES—OBSTRUCTION OF HIGHWAY BY MOTOR LORRY—OFFENCE WITNESSED BY POLICE OFFICERS—LORRY MOVED TO PRIVATE PREMISES—ENTRY ON PREMISES BY OFFICERS TO MAKE ENQUIRIES—NO SEARCH WARRANT—OFFICERS ORDERED TO LEAVE BY OWNER OF PREMISES—WHETHER ON PREMISES IN EXECUTION OF THEIR DUTY.

Appeal by case stated from a decision of London Quarter Sessions dismissing an appeal from a conviction by a Metropolitan magistrate.

The appellant, Davis, was convicted on charges of having, in July, 1935, (A) assaulted a police constable, the respondent, Lisle, in the execution of his duty as a constable, contrary to s. 18 of the Metropolitan Police Act, 1839; (B) wilfully obstructed the respondent in the execution of his duty, contrary to s. 2 of the Prevention of Crimes Amendment Act, 1885; (C) unlawfully damaged a serge tunic belonging to the Receiver of the Metropolitan Police Force, contrary to s. 14 of the Criminal Justice Administration Act, 1914. The following facts were proved or admitted: On the 11th July, 1935, the respondent and a police officer called Rose, while on duty, noticed a motor lorry which they considered to be causing an obstruction in the road. Two men were repairing the lorry. The officers went up the street and returned five minutes later, by which time the lorry had been moved into an adjacent garage. The officers entered the garage in order to enquire who was responsible for the obstruction. They did not obtain permission to enter the garage, nor were they authorised to do so by any search warrant. The two men who had been working on the lorry in the street were similarly occupied in the garage. While Rose stood at the garage door, the respondent spoke to the men. The appellant, the owner of the garage, then came in from the street and asked what the officers were doing in the garage. Rose asked to see the person in charge of the lorry. The appellant then told the officers to leave, saying they had no right to enter the garage without a search warrant. The respondent was proceeding to produce his warrant card when the appellant rushed at him and struck him, committing the assault and doing the damage complained of. It was contended for the appellant that the officers were trespassers in the garage, and that they were therefore not acting in the execution of their duty while there. For the respondent, it was contended that the officers, having witnessed the commission of an offence, were acting in execution of their duty in being on the premises where the offenders were. Reference was made to *Great Central Railway Co.* v. *Bates* [1921] 3 K.B. 578; *Thomas* v. *Sawkins* [1935] 2 K.B. 249; *Tullay* v. *Reed* (1823) 1 C. & P. 6; *Reg.* v. *Cumpton* (1880), 5 Q.B.D. 341.

LORD HEWART, C.J., said that two things must be distinguished: (1) the question whether the officers were, at the material time, acting in execution of their duty; (2) the very different question whether what the appellant did was justified by the view which he took that the officers were trespassers. He (his lordship) was not dealing with that. That might well have to be otherwise determined. In his opinion, however, the officers were not acting in execution of their duty. He felt difficulty in envisaging a legal proposition that because the police officers had witnessed an offence being committed they were entitled to enter the premises where the offenders then were. It was one thing to say that the officers were at liberty

to enter the garage for the purpose of making an enquiry. It was quite another question whether they were entitled to remain when once the appellant had told them that they could not come into his garage without a search warrant. From the moment when the appellant said that, they were trespassers. The act of producing his warrant card, which act the respondent was doing immediately before the assault, was tantamount to producing a claim to be entitled to do what he was doing. It was not possible to contend that he was doing that in execution of his duty. *Great Central Railway Co.* v. *Bates*, *supra*, was very much in point, especially the words of Atkin, L.J., at p. 582. It was accordingly impossible to maintain that the respondent was, at the material time, acting in execution of his duty, but that by no means disposed of the question whether on any view the assault in fact committed could be justified. That had not been decided, the appellant not having been prosecuted for assault, nor did the present decision of the court affect the third charge, and there was no reason to interfere with the appellant's conviction upon it. His appeal with regard to conviction on the other charges must, however, be allowed.

DU PARCQ and GODDARD, JJ., agreed.

COUNSEL: *R. P. Croom-Johnson*, K.C., and *J. F. Eastwood*, for the appellant; *J. J. Raphael*, for the respondent.

SOLICITORS: *Hicks, Arnold & Bender; The Solicitor to the Metropolitan Police.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

For Table of Cases previously reported in current volume see page xix of Advertisements.

Obituary.

MR. H. C. HAWKINS.

Mr. Henry Charlton Hawkins, B.C.L., barrister-at-law, of New-square, Lincoln's Inn, died at Winchester on Saturday, 16th May, at the age of seventy-nine. Mr. Hawkins was called to the Bar by Lincoln's Inn in 1882.

MR. D. WHITE.

Mr. David White, barrister-at-law, of Pump-court, Temple, and West Hampstead, died on Friday, 15th May. Mr. White, who was called to the Bar by Lincoln's Inn in 1907, practised on the South-Eastern Circuit and at the Central Criminal Court.

MR. H. A. JONES-LLOYD.

Mr. Herbert Arthur Jones-Lloyd, solicitor, of Pembroke, died at a hospital in London recently at the age of seventy-five. Mr. Jones-Lloyd, who was admitted a solicitor in 1884, had been clerk to the Pembroke Borough Justices since 1912. He had also been Chairman of the Court of Referees under the Ministry of Labour and Clerk to the Pembroke Dock County School Governors. He was a former President of the South Wales Law Society.

MR. J. JUKES.

Mr. James Jukes, solicitor, of Preston, died at his home at Longridge on Saturday, 9th May, at the age of eighty-four. Mr. Jukes served his articles with Messrs. Brockbank and Helder, of Whitehaven, and was admitted a solicitor in 1875. He was Clerk to the Longridge Urban District Council for many years.

MR. C. C. SIMPSON.

Mr. Charles Christopher Simpson, solicitor, of Folkestone, died recently at the age of fifty. Mr. Simpson was admitted a solicitor in 1912, and had practised for many years at Singapore.

MR. M. E. TURNER.

Mr. Maurice Edward Turner, solicitor, senior partner in the firm of Messrs. E. F. Turner & Sons, of Leadenhall-street, E.C., died at a nursing home in London, on Thursday, 14th May, within a few days of his sixty-fourth birthday. The eldest son of the late Mr. E. F. Turner, he was educated at St. Paul's School, and was admitted a solicitor in 1895. He became a partner in the firm of Turner, Son & Foley (now E. F. Turner & Sons) in January, 1896, and succeeded his father as senior partner in April, 1913. Mr. Turner was a director of British Steamship Investment Trust, Ltd, Second British Steamship Trust, Ltd., D. & J. Fowler, Ltd., and Lloyds Avenue Estate Co. Ltd. He was a keen sportsman both with gun and salmon rod.

Parliamentary News.

Progress of Bills.

House of Lords.

Alexander Scott's Hospital Order Confirmation Bill.
Considered on Report. [20th May.
Brentford and Chiswick Corporation Bill.
Read First Time. [19th May.
Civil List Bill.
Read Third Time. [20th May.
Colne Valley and Northwood Electricity Bill.
Read First Time. [19th May.
Cotton Spinning Industry Bill.
In Committee. [19th May.
Coventry Corporation Bill.
Read Second Time. [14th May.
Dalton-in-Furness Urban District Council Bill.
Read First Time. [19th May.
Fishguard and Goodwick Urban District Council Bill.
Read Third Time. [20th May.
Grampian Electricity Supply Order Confirmation Bill.
Considered on Report. [20th May.
Great Western Railway (Additional Powers) Bill.
Read First Time. [19th May.
Lee Conservancy Catchment Board Bill.
Read Third Time. [19th May.
Liverpool Corporation Bill.
Reported, with Amendments. [19th May.
Llanelly District Traction Bill.
Read First Time. [14th May.
Malta (Letters Patent) Bill.
Read Third Time. [20th May.
North Wales Electric Power Bill.
Read Third Time. [20th May.
Pilotage Authorities (Limitation of Liability) Bill.
Read First Time. [19th May.
Post Office (Sites) Bill.
Read Third Time. [19th May.
Public Health (Drainage of Trade Premises) Bill.
Read First Time. [19th May.
Solihull Urban District Council Bill.
Read First Time. [14th May.
Special Areas Reconstruction (Agreement) Bill.
Read Second Time. [20th May.
Sugar Industry (Reorganisation) Bill.
Read Third Time. [19th May.
Uckfield Water Bill.
Reported, with Amendments. [14th May.

House of Commons.

Bedwellty Urban District Council Bill.
Amendments Considered. [20th May.
Brentford and Chiswick Corporation Bill.
Read Third Time. [18th May.
Buckhaven and Methil Burgh Order Confirmation Bill.
Read Second Time. [20th May.
Cheltenham and Gloucester Joint Water Board, etc., Bill.
Amendments Made. [20th May.
Cirencester Gas Bill.
Reported, with Amendments. [15th May.
Cleethorpes Trolley Vehicles Bill.
Withdrawn. [20th May.
Colne Valley and Northwood Electricity Bill.
Read Third Time. [18th May.

Dalton-in-Furness Urban District Council Bill.
Read Third Time. [19th May.
Derby Corporation (Trolley Vehicles) Provisional Order Bill.
Read Second Time. [15th May.
Doncaster Corporation (Trolley Vehicles) Provisional Order Bill.
Read Second Time. [15th May.
Finance Bill.
Read Second Time. [20th May.
Fishguard and Goodwick Urban District Council Bill.
Read First Time. [20th May.
Glasgow Corporation Order Confirmation Bill.
Read Third Time. [15th May.
Grampian Electricity Supply Order Confirmation Bill.
Read Third Time. [18th May.
Great Western Railway (Additional Powers) Bill.
Read Third Time. [15th May.
Grimsby Corporation (Trolley Vehicles) Provisional Order Bill.
Read First Time. [19th May.
Land Drainage Provisional Order (No. 1) Bill.
Read First Time. [20th May.
Lee Conservancy Catchment Board Bill.
Read First Time. [19th May.
Llanelly District Traction Bill.
Read Third Time. [14th May.
London County Council (General Powers) Bill.
Read Second Time. [18th May.
London County Council (Housing Site) Bill.
Read First Time. [20th May.
Marriages Provisional Orders Bill.
Read Second Time. [20th May.
Mersey Docks and Harbour Board Bill.
Lords' Amendments Agreed to. [15th May.
Nottinghamshire and Derbyshire Traction Bill.
Read Third Time. [15th May.
Pilotage Authorities (Limitation of Liability) Bill.
Read Third Time. [15th May.
Reading Corporation (Trolley Vehicles) Provisional Order Bill.
Read Second Time. [15th May.
Rhymney Valley Sewerage Board Bill.
Read Third Time. [18th May.
Solihull Urban District Council Bill.
Read Third Time. [14th May.
South East Cornwall Water Board Bill.
Lords' Amendments Agreed to. [15th May.
Sugar Industry (Re-organisation) Bill.
Lords' Amendments Agreed to. [20th May.
Swansea and District Transport Bill.
Amendments Considered. [19th May.
Winchester Corporation Bill.
Amendments Considered. [20th May.
Wrexham and East Denbighshire Water Bill.
Read Second Time. [18th May.
Yorkshire Electric Power Bill.
Read Third Time. [18th May.

Questions to Ministers.

COURTS OF SUMMARY JURISDICTION (SOCIAL SERVICES).

Mr. SHORT asked the Home Secretary what action he proposes to take arising out of the report of the Departmental Committee on the Social Services in the Courts of Summary Jurisdiction.

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT (Sir John Simon): The report is receiving careful consideration, but I am not yet in a position to make any statement. [14th May.

ADMINISTRATION OF JUSTICE (APPEALS).

Mr. CASSELLS asked the Lord Advocate whether he is prepared to bring in legislation rendering competent in Scotland appeal in court actions where the judgment of the first instance has been obtained upon evidence which ultimately proved to be perjured.

THE LORD ADVOCATE (Mr. T. M. Cooper): The conditions regulating the review of decisions pronounced by Lords Ordinary or Sheriffs now fall within the jurisdiction of the Rules Councils set up under the Administration of Justice (Scotland) Act, 1933, and can be amended, if any change in procedure is deemed advisable, by Act of Sederunt without the necessity for legislation. I am therefore sending a copy of the hon. Member's question to the Rules Council for their consideration.

Mr. CASSELLS: May I take it from the hon. and learned Member that he has applied his attention to the article in the *Scottish Law Gazette* of March, 1936?

THE LORD ADVOCATE: Yes, sir, and I shall bring that to the attention of the Rules Council. [19th May.

Societies.

The Hardwicke Society.

A meeting of the Society was held on Friday, 15th May, at 8.15 p.m., in the Middle Temple Common Room, the President, Mr. T. H. Mayers, in the chair. Prince Leonid Lieven moved: "That this House congratulates Mussolini on the annexation of Abyssinia." Mr. T. F. Southall opposed. There also spoke: Mr. Fearnehough, Mr. Newman Hall (Immediate Past President), Mr. Lewis Sturge, Mr. Walter Stewart, Mr. Moore (visitor), Mr. F. P. Howard, Mr. Petrie (Hon. Treasurer), Mr. Roope, Mr. A. C. Douglas, Mr. Scholefield, Mr. Llewellyn Thomas (Hon. Secretary). The hon. mover having replied, the House divided, and the motion was lost by eleven votes.

Solicitors' Benevolent Association.

The monthly meeting of the Directors was held on the 6th May, at No. 60, Carey-street, London, W.C.2, with Mr. C. S. Bigg (Leicester) in the chair. The other Directors present were: Sir A. Norman Hill, Bart., Sir E. F. Knapp-Fisher, Sir Edmund Cook, C.B.E., and Messrs. G. S. Blaker (Henley), E. E. Bird, T. G. Cowan, T. S. Curtis, E. F. Dent, R. Epton (Lincoln), G. Keith, C. G. May, A. R. Moon (Manchester), R. C. Nesbitt, H. F. Plant, W. N. Riley (Brighton), A. B. Urmston (Maidstone), and the Secretary; £1,528 10s. was distributed in grants to necessitous cases; thirteen new members were admitted; and other general business was transacted.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve a recommendation of the Home Secretary that Mr. W. H. CARTWRIGHT SHARP, K.C., be appointed Recorder of Banbury, to succeed the late Mr. H. J. Turrell. Mr. Cartwright Sharp was called to the Bar in 1907, and is a member of the Inner Temple and the Middle Temple. He took silk in 1934.

The Lord Chancellor has appointed Mr. HENRY MAKIN DRAPER to be Assistant Registrar of the County Courts in the London area as from the 18th day of May, 1936.

Sir TERENCE O'CONNOR, K.C., M.P., Solicitor-General, has been elected a Master of the Bench of the Inner Temple.

Sir CHARLES TYRRELL GILES, K.C., has been re-elected chairman of the Wimbledon and Putney Commons Conservators for the forty-fifth year. Sir Charles was called to the Bar by the Inner Temple in 1874.

Dr. L. F. BECCLE, Deputy Coroner for the Eastern district of the County of London and for the Metropolitan district of Essex, has been appointed Coroner for the Southern and Western districts of Essex, succeeding Mr. C. E. Lewis, retired. Dr. Beccle was called to the Bar by Lincoln's Inn in 1933.

Mr. B. S. W. TAYLOR, solicitor, of Leominster, has been appointed Coroner for North Herefordshire. Mr. Taylor was admitted a solicitor in 1921.

Mr. CHARLES TREWAVAS, Deputy Town Clerk of Stretford, has been appointed Town Clerk in succession to Mr. G. H. Abrahams, who retires on 31st August next. Mr. Trewavas was admitted a solicitor in 1928.

Professional Announcements.

(2s. per line.)

EX-CHIEF INSPECTOR GOUGH, Scotland Yard, is proceeding to NEW ZEALAND and AUSTRALIA professionally in July. Will undertake any confidential matters en route. Address: 15, Yew Tree Court, London, N.W.11, until end of July, then Box 45A, G.P.O., Sydney, N.S.W.

SOLICITORS & GENERAL MORTGAGE & ESTATE AGENTS ASSOCIATION.—A link between Borrowers and Lenders, Vendors and Purchasers.—Apply, The Secretary, Reg. Office: 12, Craven Park, London, N.W.10.

Mr. Charles Henry Read, solicitor, of Sudbury, Middlesex, and of Baker-street, left estate of the gross value of £33,745, with net personalty £23,804. He left £100 to Harlesden Congregational Church; £50 to Dr. Barnardo's Homes; and £50 to the National Children's Home and Orphanage.

Notes.

The King has granted his Patronage to the Selden Society.

Sir Edward Tindal Atkinson has presented to Southend a portrait of his late father, Judge Tindal Atkinson, who was formerly County Court Judge at Southend.

Mr. J. P. Eddy, K.C., has been adopted by the Shoreditch National Government Co-ordinating Committee as Liberal National prospective candidate for Shoreditch.

The Wateler Peace Prize for 1936—worth £3,500—has been awarded by the Board of the Carnegie Institute to the Academy of International Law in The Hague.

Sir Frederick Pascoe Rutter has been re-elected Governor and Chairman of the London and Lancashire Insurance Company and Sir W. Peter Rylands, Deputy Chairman.

Rotherham County Borough Council have placed on record their appreciation of the services of Mr. F. Renwick, Deputy Town Clerk, who is retiring after thirty-six years' service.

The Search Rooms of the Public Record Office will be closed for cleaning this year from 14th to 19th September inclusive. Special arrangements will be made for the transaction of urgent legal business.

Sir Chartres Biron has accepted the presidency of the Johnson Society of London, and will take the chair at the seventh annual dinner to be held at the Criterion Restaurant on Thursday, 2nd July.

The new President of the Auctioneers' and Estate Agents' Institute is Mr. Edward William Eason, head of the firm of Messrs. Reynolds & Eason, which was founded 110 years ago. He was born in 1871 and educated at Marlborough, and became a partner in the firm in 1897. He joined the Institute in 1913 and was elected Vice-President in 1928.

An ordinary meeting of the Medico-Legal Society will be held at Manson House, 26, Portland-place, W.1, on Thursday, 28th May, at 8.30 p.m., when a Paper will be read by Mr. Albert Crew, Barrister-at-law, on "Proof of Identity of Persons in Criminal Cases in its Medico-Legal Aspects." Members may introduce guests to the meeting on production of the member's private card.

The Institute for the Scientific Treatment of Delinquency announces that a lecture on "Mental Disorders in Continental Criminal Law" will be given by Dr. Herman Mannheim (formerly Professor of Criminal Law, University of Berlin, and Judge of the Court of Appeal, Berlin) at The Hall of Gray's Inn, South-square, Gray's Inn, W.C.1 (by kind permission of the Treasurer and the Masters of the Bench of Gray's Inn), on Tuesday, 26th May, at 8.30 p.m. Admission free. Inquiries may be addressed to the Hon. Sec., Institute for the Scientific Treatment of Delinquency, 56, Grosvenor-street, W.1.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON.

DATE.	EMERGENCY ROTA.	APPEAL COURT I.	GROUP I. MR. JUSTICE EVE. Witness Part I.	MR. JUSTICE BENNETT. Witness Part II.
	Mr.	Mr.	Mr.	Mr.
May 25	Jones	More	*Hicks Beach	*Jones
,, 26	Ritchie	Hicks Beach	*Blaker	Hicks Beach
,, 27	Blaker	Andrews	*Jones	*Blaker
,, 28	More	Jones	*Hicks Beach	Jones
,, 29	Hicks Beach	Ritchie	Blaker	*Hicks Beach
	GROUP I. MR. JUSTICE CROSSMAN. Non-Witness.	MR. JUSTICE CLAUSON. Non-Witness.	GROUP II. MR. JUSTICE LUXMOORE. Witness	MR. JUSTICE FARWELL. Witness
	Mr.	Mr.	Mr.	Mr.
May 25	Blaker	Andrews	More	*Ritchie
,, 26	Jones	More	*Ritchie	*Andrews
,, 27	Hicks Beach	Ritchie	Andrews	*More
,, 28	Blaker	Andrews	*More	Ritchie
,, 29	Jones	More	Ritchie	*Andrews

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

The WHITSUN VACATION will commence on Saturday, the 30th day of May, 1936, and terminate on Tuesday, the 2nd day of June, 1936, inclusive.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 11th June, 1936.

	Div. Months.	Middle Price 20 May 1936.	Flat Interest Yield.	‡Approximate Yield with redemption
			£ s. d.	£ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	116	3 9 0	2 19 3
Consols 2½%	JAJO	85½	2 18 6	—
War Loan 3½% 1952 or after	JD	105⅝	3 6 1	3 1 1
Funding 4% Loan 1960-90	MN	117¼	3 8 3	2 19 8
Funding 3% Loan 1959-69	AO	104	2 17 8	2 15 3
Funding 2½% Loan 1956-61	AO	95⅜	2 12 2	2 14 9
Victory 4% Loan Av. life 23 years	MS	115¼	3 9 5	3 1 3
Conversion 5% Loan 1944-64	MN	118½	4 4 5	2 5 6
Conversion 4½% Loan 1940-44	JJ	111½	4 0 9	2 1 2
Conversion 3½% Loan 1961 or after	AO	107⅝	3 5 0	3 1 2
Conversion 3% Loan 1948-53	MS	105	2 17 2	2 10 3
Conversion 2½% Loan 1944-49	AO	102	2 9 0	2 4 3
Local Loans 3% Stock 1912 or after	JAJO	97	3 1 10	—
Bank Stock	AO	380	3 3 2	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	87½	3 2 10	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	97	3 1 10	—
India 4½% 1950-55	MN	115	3 18 3	3 3 1
India 3½% 1931 or after	JAJO	98	3 11 5	—
India 3% 1948 or after	JAJO	86	3 9 9	—
Sudan 4½% 1939-73 Av. life 27 years	FA	119	3 15 8	3 8 3
Sudan 4% 1974 Red. in part after 1950	MN	116	3 9 0	2 12 4
Tanganyika 4% Guaranteed 1951-71	FA	115	3 9 7	2 15 4
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	110	4 1 10	2 10 4
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	111	3 12 1	3 4 4
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	103xd	3 12 10	3 9 2
Canada 4% 1953-58	MS	112	3 11 5	3 1 7
*Natal 3% 1929-49	JJ	102	2 18 10	—
*New South Wales 3½% 1930-50	JJ	101	3 9 4	—
*New Zealand 3% 1945	AO	101	2 19 5	2 17 6
Nigeria 4% 1963	AO	113	3 10 10	3 5 5
*Queensland 3½% 1950-70	JJ	101	3 9 4	3 8 2
South Africa 3½% 1953-73	JD	107	3 5 5	2 19 5
*Victoria 3½% 1929-49	AO	100	3 10 0	3 10 0
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	97	3 1 10	—
*Croydon 3% 1940-60	AO	100	3 0 0	3 0 0
Essex County 3½% 1952-72	JD	108	3 4 10	2 17 10
Leeds 3% 1927 or after	JJ	96	3 2 6	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	107	3 5 5	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	81	3 1 9	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	95½	3 2 10	—
Manchester 3% 1941 or after	FA	97	3 1 10	—
*Metropolitan Consd. 2½% 1920-49	MJSD	100¾	2 9 7	—
Metropolitan Water Board 3% "A" 1963-2003	AO	96	3 2 6	3 2 10
Do. do. 3% "B" 1934-2003	MS	97	3 1 10	3 2 1
Do. do. 3% "E" 1953-73	JJ	101	2 19 5	2 18 5
Middlesex County Council 4% 1952-72	MN	114	3 10 2	2 17 10
† Do. do. 4½% 1950-70	MN	116	3 17 7	3 1 6
Nottingham 3% Irredeemable	MN	96	3 2 6	—
Sheffield Corp. 3½% 1968	JJ	108	3 4 10	3 2 0
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	115½	3 9 3	—
Gt. Western Rly. 4½% Debenture	JJ	127½	3 10 7	—
Gt. Western Rly. 5% Debenture	JJ	140½	3 11 2	—
Gt. Western Rly. 5% Rent Charge	FA	135½	3 13 10	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	131½	3 16 1	—
Gt. Western Rly. 5% Preference	MA	121½	4 2 4	—
Southern Rly. 4% Debenture	JJ	114	3 10 2	—
†Southern Rly. 4% Red. Deb. 1962-67	JJ	115½	3 9 3	3 2 4
Southern Rly. 5% Guaranteed	MA	131½	3 16 1	—
Southern Rly. 5% Preference	MA	123	4 1 4	—

*Not available to Trustees over par. †Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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